



Journal of the Senate

Number 7—Special Session H

Wednesday, June 17, 1992

CALL TO ORDER

The Senate was called to order by the President at 10:00 a.m. A quorum present—36:

Madam President	Diaz-Balart	Kirkpatrick	Scott
Bankhead	Forman	Kiser	Souto
Beard	Gardner	Kurth	Thomas
Bruner	Girardeau	Langley	Thurman
Casas	Grant	Malchon	Walker
Childers	Grizzle	McKay	Weinstein
Crotty	Jenne	Meek	Weinstock
Dantzler	Jennings	Myers	Wexler
Davis	Johnson	Plummer	Yancey

Excused: Senators Gordon and Dudley

PRAYER

The following prayer was offered by James C. Vaughn, Jr., Reading Clerk:

Hear our prayer, O Lord; hear our prayer, O Lord. Incline thine ear to us and grant us thy peace. In your name we ask it. Amen.

CONSIDERATION OF RESOLUTION

On motion by Senator Childers, by two-thirds vote **SCR 234-H** was withdrawn from the Committee on Rules and Calendar.

On motion by Senator Childers—

SCR 234-H—A concurrent resolution supporting the location of a Department of Defense Finance and Accounting Service Center within the State of Florida.

WHEREAS, the location of a Defense Finance and Accounting Service Center within the State of Florida presents an economic growth opportunity for communities within the state, creating up to 17,300 permanent new jobs with up to \$300 million in additional earnings for Floridians, and

WHEREAS, communities selected as sites for Defense Finance and Accounting Service Centers will enjoy substantial, broad-based, long-term economic benefits, and

WHEREAS, defense-related activity is one of this state's largest and most important economic sectors, and

WHEREAS, the State of Florida has had a longstanding partnership with the Department of Defense, and is the location for several key military installations, and

WHEREAS, the overall quality of life in this state is unmatched in any other state, providing a rich variety of cultural and recreational opportunities, and

WHEREAS, the Legislature recognizes that both immediate and long-term action must be taken to ensure the creation of high-quality jobs and a rising standard of living for all of Florida's residents, NOW, THEREFORE,

Be It Resolved by the Senate of the State of Florida, the House of Representatives Concurring:

That the State of Florida supports the location of a Defense Finance and Accounting Service Center within the state, and pledges its participation and resources to assist Florida communities interested in being selected as a site for a Defense Finance and Accounting Service Center.

BE IT FURTHER RESOLVED that copies of this resolution be dispatched to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, to each member of the Florida delegation to the United States Congress, to the Secretary of Defense, and to each member of the Defense Base Closure and Realignment Commission.

—was taken up out of order by unanimous consent, read the second time in full, adopted and certified to the House.

MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator Thomas, by two-thirds vote **SB 162-H** was withdrawn from the Committee on Corrections, Probation and Parole.

On motion by Senator Gardner, by two-thirds vote **CS for SB 196-H** was withdrawn from the Committee on Appropriations.

MOTIONS

On motion by Senator Thomas, the rules were waived and the Committee on Health and Rehabilitative Services was granted permission to meet this day from 2:00 p.m. until completion of the agenda.

On motions by Senator Thomas, by two-thirds vote all bills remaining on the Special Order Calendar this day and **HB 159-H** were placed on the Special Order Calendar for Thursday, June 18.

SPECIAL ORDER

CS for SB 102-H—A bill to be entitled An act relating to public retirement systems; amending s. 20.13, F.S., relating to the structure of the Department of Insurance, to delete duties of the Division of Benefits that are assigned elsewhere or eliminated by this act; amending s. 112.363, F.S.; increasing the retiree health insurance subsidy rate; increasing the employer contribution rate to fund the increased subsidy; creating s. 112.666, F.S.; creating the Florida Protection of Public Employee Retirement Benefits Trust Fund; providing for annual assessment of local retirement systems or plans to pay for the cost of administering the Florida Protection of Public Employee Retirement Benefits Act; providing legislative intent with respect to governmental retirement systems; amending s. 121.021, F.S.; conforming the definition of the term "covered group" as used with respect to the Florida Retirement System to a change in terminology made by this act; amending ss. 121.052, 121.055, 121.071, 121.40, F.S.; revising contribution rates applicable to members of the Elected State and County Officers' Class, the Senior Management Service Class, and the Regular, Special Risk, and Special Risk Administrative Support Classes of the Florida Retirement System and the contribution rate applicable to the supplemental retirement plan for the Institute of Food and Agricultural Sciences of the University of Florida; amending s. 121.091, F.S., revising death benefit provisions under the Florida Retirement System; providing for reinstatement of benefit to a surviving spouse whose benefit terminated because of remarriage; providing for retrospective application; amending ss. 122.08, 122.35, F.S.; advancing the effective date for provisions that provide for retirement after 30 years of service for members of the State and County Officers and Employees' Retirement System; amending ss. 175.021, 175.032, 175.041, 175.061, 175.071, 175.081, 175.091, 175.101, 175.111, 175.121, 175.122, 175.131, 175.141, 175.152, 175.162, 175.191, 175.201, 175.211, 175.251, 175.261, 175.291, 175.301, 175.311, 175.321, 175.341, 175.351, 175.361, 175.401, 185.02, 185.05, 185.10, 185.221, 185.23, 185.35, 185.37, 185.50, F.S., relating to municipal firefighters' and police officers' pension or retirement plans and retiree health insurance subsidies; transferring certain powers, duties, and functions of the Department of Insurance respecting those plans and subsidies to the Department of Adminis-

tration and assigning these and other duties respecting those plans and subsidies to the Division of Retirement; providing for inclusion of matters assigned to the Division of Retirement in the transfer of the division to the Department of Management Services at a subsequent time; providing for transfer of related records, personnel, property, and funds; providing for continuation of certain existing rules of the Department of Insurance as rules of the division; abolishing the Bureau of Municipal Police Officers' and Firefighters' Pension Funds of the Division of Benefits of the Department of Insurance; providing for disposition of premium tax moneys collected under chs. 175 and 185, F.S.; providing for annual appropriation of such moneys; providing for payment of the respective expenses of the Department of Insurance and the Division of Retirement in administering their respective duties under chs. 175 and 185, F.S.; providing that it is the legislative intent that firefighters employed by special fire control districts should be entitled to the same retirement benefits as municipal firefighters; providing for pension funds, retirement benefits, and retiree health insurance subsidies for firefighters employed by special fire control districts, which funds, benefits, and subsidies are subject to the same statutory requirements as pension funds and retirement benefits for municipal firefighters; clarifying that undistributed funds are annually transferred to support the firefighters' supplemental compensation program; providing for redistribution of certain funds to certain municipalities and special fire control districts; conforming the provisions of chs. 175 and 185, F.S., to this act; conforming cross-references; deleting obsolete provisions; revising terminology; improving clarity; repealing s. 185.24, F.S., relating to annual appropriations for administrative expenses, which section is superseded by this act; amending ss. 238.07, 238.11, F.S.; advancing the effective date for provisions that provide for retirement after 30 years of service for members of the Teachers' Retirement System of Florida; amending s. 624.520, F.S., relating to preemption by the state of insurer premium taxes, to conform that section to changes by this act; amending s. 633.382, F.S., relating to the Firefighters Supplemental Compensation Trust Fund; providing for curing of deficits; providing for redistribution of certain funds; providing effective dates.

—was read the second time by title.

Senator Wexler moved the following amendment which was adopted:

Amendment 1 (with Title Amendment)—On page 5, line 27 through page 77, line 2, strike all of said lines and insert:

Section 3. Section 112.666, Florida Statutes, is created to read:

112.666 Florida Protection of Public Employee Retirement Benefits Trust Fund.—

(1) There is established a trust fund in the State Treasury to be entitled the "Florida Protection of Public Employee Retirement Benefits Trust Fund," out of which the cost of administering this part is annually appropriated. The Division of Retirement shall assess annually each local retirement system or plan covered by this part an equitable share of the division's cost of administering this part. The division shall establish, by rule, an equitable formula by which each such local retirement system or plan is assessed its share of the division's cost of administering this part. Each such local retirement system or plan shall pay its assessment upon notice by the division. However, annual appropriations made to the trust fund pursuant to ss. 175.121 and 185.10 shall be credited to firefighters' and police officers' retirement systems or plans in lieu of assessments.

(2) The division shall deposit each assessment collected pursuant to subsection (1) into the trust fund established pursuant to this section.

(3) The State Board of Administration shall invest and reinvest the moneys of the trust fund in accordance with ss. 215.44-215.53. Costs incurred by the State Board of Administration under this section shall be deducted from the interest and investment earnings accruing to the trust fund pursuant to this section and ss. 175.121 and 185.10.

Section 4. The Legislature finds that a proper and legitimate state purpose is served when employees and retirees of the state and of its political subdivisions, and the dependents, survivors, and beneficiaries of such employees and retirees, are extended the basic protections afforded by governmental retirement systems that provide fair and adequate benefits and that are managed, administered, and funded in an actuarially sound manner, as required by Section 14 of Article X of the State Constitution and part VII of chapter 112 of the Florida Statutes. Therefore, the Legislature hereby determines and declares that the provisions of this act fulfill an important state interest.

Section 5. Subsection (34) of section 121.021, as amended by section 2 of chapter 92-122, Laws of Florida, and section 52 of chapter 92-279, Laws of Florida, is amended to read:

121.021 Definitions.—The following words and phrases as used in this chapter have the respective meanings set forth unless a different meaning is plainly required by the context:

(34) "Covered group" means the officers and employees of an employer who become members under this chapter. "Covered group" applies also when the employer is a special district or city for which coverage under this chapter is applied for by the employer and approved for social security coverage by the United States Secretary of Health and Human Services and approved by the administrator for membership under this chapter. Members of a municipal firefighters' pension trust fund or a municipal police officers' retirement trust fund, established in accordance with chapter 175 or chapter 185, respectively, shall be considered eligible for membership under this chapter only after holding a referendum and by affirmative majority vote electing coverage under this chapter.

Section 6. Paragraphs (a) and (c) of subsection (7) of section 121.052, Florida Statutes, as amended by section 4 of chapter 92-122, Laws of Florida, are amended to read:

121.052 Membership class of elected state and county officers.—

(7) CONTRIBUTIONS.—

(a) The following table states the required retirement contribution rates for members of the Elected State and County Officers' Class and their employers in terms of a percentage ~~percentages~~ of the member's ~~members'~~ gross compensation. A change ~~Changes in a the~~ contribution rate ~~is rates are~~ effective with the first salary paid on or after the beginning date of ~~the a~~ change. Contributions shall be made or deducted as may be appropriate for each pay period and ~~are shall be~~ in addition to the contributions required for social security and the Retiree Health Insurance Subsidy Trust Fund.

Dates of Contribution

Rate Changes	Members	Employers
July 1, 1972, through September 30, 1977		
Legislators	8%	8%
All Other Members	8%	8%
October 1, 1977, through September 30, 1978		
Legislators	8%	8%
All Other Members	4%	12%
October 1, 1978, through September 30, 1979		
Legislators	8%	10.57%
All Other Members	4%	16.78%
October 1, 1979, through September 30, 1981		
Legislators	8%	10.57%
Governor, Lt. Governor, Cabinet Officers	4%	16.78%
All Other Members	0%	20.78%
July 1, 1981, through June 30, 1984		
County Elected Officers	0%	19.30%
July 1, 1984, through September 30, 1984		
County Elected Officers	0%	20.25%
October 1, 1981, through September 30, 1984		
Legislators	0%	19.30%
Governor, Lt. Governor, Cabinet Officers	0%	21.03%
State Attorneys, Public Defenders	0%	20.95%
Justices, Judges	0%	22.55%
October 1, 1984, through September 30, 1986		
Legislators	0%	10.98%
Governor, Lt. Governor, Cabinet Officers	0%	10.98%
State Attorneys, Public Defenders	0%	10.98%
Justices, Judges	0%	21.79%
County Elected Officers	0%	16.97%
October 1, 1986, through December 31, 1988		
Legislators	0%	11.50%
Governor, Lt. Governor, Cabinet Officers	0%	11.50%

State Attorneys, Public Defenders	0%	11.50%
Justices, Judges	0%	20.94%
County Elected Officers	0%	17.19%
January 1, 1989, through December 31, 1989		
Legislators	0%	13.70%
Governor, Lt. Governor, Cabinet Officers	0%	13.70%
State Attorneys, Public Defenders	0%	13.70%
Justices, Judges	0%	22.58%
County Elected Officers	0%	18.44%
January 1, 1990, through December 31, 1990		
Legislators	0%	15.91%
Governor, Lt. Governor, Cabinet Officers	0%	15.91%
State Attorneys, Public Defenders	0%	15.91%
Justices, Judges	0%	24.22%
County Elected Officers	0%	19.71%
January 1, 1991, through December 31, 1991		
Legislators	0%	17.73%
Governor, Lt. Governor, Cabinet Officers	0%	17.73%
State Attorneys, Public Defenders	0%	17.73%
Justices, Judges	0%	26.63%
County Elected Officers	0%	23.32%
January 1, 1992, through December 31, 1992		
Legislators	0%	19.94%
Governor, Lt. Governor, Cabinet Officers	0%	19.94%
State Attorneys, Public Defenders	0%	19.94%
Justices, Judges	0%	28.27%
County Elected Officers	0%	24.59%
Effective January 1, 1993		
Legislators	0%	22.65%
Governor, Lt. Governor, Cabinet Officers	0%	22.65%
State Attorneys, Public Defenders	0%	22.65%
Justices, Judges	0%	30.52%
County Elected Officers	0%	26.07%

(c) The following table states the required employer contribution on behalf of each member of the Elected State and County Officers' Class in terms of a percentage of the member's gross compensation. Such contribution constitutes the entire health insurance subsidy contribution with respect to the member. A change in the contribution rate is effective with the first salary paid on or after the beginning date of the change. The retiree health insurance subsidy contribution rate is as follows:

Dates of Contribution Rate Changes	Contribution Rate
October 1, 1987, through December 31, 1988	0.24%
January 1, 1989, through December 31, 1992	0.48%
Effective January 1, 1993	0.52%

1. ~~Effective October 1, 1987, each employer shall contribute an amount equal to .24 percent of each member's gross salary, which shall constitute the entire health insurance subsidy contribution with respect to such member.~~

2. ~~Effective January 1, 1989, each employer shall contribute an amount equal to .48 percent of each member's gross salary, which shall constitute the entire health insurance subsidy contribution with respect to such member.~~

Such contributions shall be deposited by the administrator in the Retiree Health Insurance Subsidy Trust Fund.

Section 7. Paragraphs (a) and (c) of subsection (3) of section 121.055, Florida Statutes, as amended by section 56 of chapter 92-279, Laws of Florida, are amended to read:

121.055 Senior Management Service Class.—There is hereby established a separate class of membership within the Florida Retirement System to be known as the "Senior Management Service Class," which shall become effective February 1, 1987.

(3)(a) The following table states the required retirement contribution rates for members of the Senior Management Service Class and their employers in terms of a percentage of the member's gross compensation. A change in the contribution rate is effective with the first salary paid on or after the beginning date

of the a change. Contributions shall be made for each pay period and are shall be in addition to the contributions required for social security and the Retiree Health Insurance Subsidy Trust Fund.

Dates of Contribution Rate Changes	Members	Employers
February 1, 1987, through December 31, 1988	0%	13.88%
January 1, 1989, through December 31, 1989	0%	14.95%
January 1, 1990, through December 31, 1990	0%	16.04%
January 1, 1991, through December 31, 1991	0%	18.39%
January 1, 1992, through December 31, 1992	0%	19.48%
Effective January 1, 1993	0%	22.60%

(c) The following table states the required employer contribution on behalf of each member of the Senior Management Service Class in terms of a percentage of the member's gross compensation. Such contribution constitutes the entire health insurance subsidy contribution with respect to the member. A change in the contribution rate is effective with the first salary paid on or after the beginning date of the change. The retiree health insurance subsidy contribution rate is as follows:

Dates of Contribution Rate Changes	Contribution Rate
October 1, 1987, through December 31, 1988	0.24%
January 1, 1989, through December 31, 1992	0.48%
Effective January 1, 1993	0.52%

1. ~~Effective October 1, 1987, each employer shall contribute on behalf of each member in the Senior Management Service Class an amount equal to .24 percent of the member's gross salary, which shall constitute the entire health insurance subsidy contribution with respect to such member.~~

2. ~~Effective January 1, 1989, each employer shall contribute an amount equal to .48 percent of each member's gross salary, which shall constitute the entire health insurance subsidy contribution with respect to such member.~~

Such contributions shall be deposited by the administrator in the Retiree Health Insurance Subsidy Trust Fund.

Section 8. Subsections (1) and (4) of section 121.071, Florida Statutes, as amended by section 57 of chapter 92-279, Laws of Florida, are amended to read:

121.071 Contributions.—Contributions to the system shall be made as follows:

(1) The following tables state the required retirement contribution rates for members of the Regular Class, Special Risk Class, or and Special Risk Administrative Support Class and their employers in terms of a percentage of the member's gross compensation. A change in the contribution rate is effective with the first salary paid on or after the beginning date of the a change. Contributions shall be made or deducted as may be appropriate for each pay period and are shall be in addition to the contributions required for social security and the Retiree Health Insurance Subsidy Trust Fund.

(a) Retirement contributions for regular members are as follows:

Dates of Contribution Rate Changes	Members	Employers
December 1, 1970, through December 31, 1974, for state agencies, state universities, community colleges, and district school boards	4%	4%
December 1, 1970, through September 30, 1975, for all other local government agencies	4%	4%
January 1, 1975, through September 30, 1978, for state agencies, and state universities	0%	9%
January 1, 1975, through July 31, 1978, for community colleges and district school boards	0%	9%
October 1, 1975, through September 30, 1978, for all other local government agencies	0%	9%

August 1, 1978, through September 30, 1981, 0% 9.1%
for community colleges and district
school boards

October 1, 1978, through September 30, 1981, 0% 9.1%
for all other agencies

October 1, 1981, through September 30, 1984	0%	10.93%
October 1, 1984, through September 30, 1986	0%	12.24%
October 1, 1986, through December 31, 1988	0%	13.14%
January 1, 1989, through December 31, 1989	0%	13.90%
January 1, 1990, through December 31, 1990	0%	14.66%
January 1, 1991, through December 31, 1991	0%	15.72%
January 1, 1992, through December 31, 1992	0%	16.51%
Effective January 1, 1993	0%	17.15% 17.27%

(b) Retirement contributions for special risk members are as follows:

Dates of Contribution Rate Changes	Members	Employers
December 1, 1970, through September 30, 1974	6%	6%
October 1, 1974, through December 31, 1974, for state agencies, state universities, community colleges, and district school boards	8%	8%
October 1, 1974, through September 30, 1975, for all other local government agencies	8%	8%
January 1, 1975, through September 30, 1978, for state agencies, state universities, community colleges, and district school boards	0%	13%
October 1, 1975, through September 30, 1978, for other local government agencies	0%	13%
October 1, 1978, through September 30, 1981	0%	13.95%
October 1, 1981, through September 30, 1984	0%	13.91%
October 1, 1984, through September 30, 1986	0%	14.67%
October 1, 1986, through December 31, 1988	0%	15.11%
January 1, 1989, through December 31, 1989	0%	17.50%
January 1, 1990, through December 31, 1990	0%	19.90%
January 1, 1991, through December 31, 1991	0%	25.52%
January 1, 1992, through December 31, 1992	0%	26.35%
Effective January 1, 1993	0%	27.03% 27.14%

(c) Retirement contributions for special risk administrative support members are as follows:

Dates of Contribution Rate Changes	Members	Employers
July 1, 1982, through September 30, 1984	0%	11.14%
October 1, 1984, through September 30, 1986	0%	13.09%
October 1, 1986, through December 31, 1988	0%	15.44%
January 1, 1989, through December 31, 1989	0%	14.76%
January 1, 1990, through December 31, 1990	0%	14.09%
January 1, 1991, through December 31, 1991	0%	20.16%
January 1, 1992, through December 31, 1992	0%	19.51%
Effective January 1, 1993	0%	18.59% 18.83%

(4) *The following table states the required employer contribution on behalf of each member of the Regular Class, Special Risk Class, or Special Risk Administrative Support Class in terms of a percentage of the member's gross compensation. Such contribution constitutes the entire health insurance subsidy contribution with respect to the member. A change in the contribution rate is effective with the first salary paid on or after the beginning date of the change. The retiree health insurance subsidy contribution rate is as follows:*

Dates of Contribution Rate Changes	Contribution Rate
October 1, 1987, through December 31, 1988	0.24%
January 1, 1989, through December 31, 1992	0.48%
Effective January 1, 1993	0.52%

~~(a) Effective October 1, 1987, each employer shall contribute on behalf of each member an amount equal to .24 percent of the member's gross salary, which shall constitute the entire health insurance subsidy contribution with respect to such member.~~

~~(b) Effective January 1, 1989, each employer shall contribute an amount equal to .48 percent of each member's gross salary, which shall constitute the entire health insurance subsidy contribution with respect to such member.~~

Such contributions shall be deposited by the administrator in the Retiree Health Insurance Subsidy Trust Fund.

Section 9. Paragraph (c) of subsection (7) of section 121.091, Florida Statutes, as amended by section 7 of chapter 92-122, Laws of Florida, is amended to read:

121.091 Benefits payable under the system.—No benefits shall be paid under this section unless the member has terminated employment as provided in s. 121.021(39).

(7) DEATH BENEFITS.—

(c)1. The surviving spouse of any member killed in the line of duty may receive a monthly pension equal to one-half of the monthly salary being received by the member at the time of death for the rest of the surviving spouse's lifetime; or, in lieu of the above, the surviving spouse may elect to receive the benefit provided in paragraph (b).

2. If the surviving spouse of a member killed in the line of duty dies, the monthly payments which would have been payable to such surviving spouse had such surviving spouse lived shall be paid for the use and benefit of such member's child or children under 18 years of age and unmarried until the 18th birthday of the member's youngest child.

3. If a member killed in the line of duty leaves no surviving spouse but is survived by a child or children under 18 years of age, the benefits provided by subparagraph 1., normally payable to a surviving spouse, shall be paid for the use and benefit of such member's child or children under 18 years of age and unmarried until the 18th birthday of the member's youngest child.

4. *The surviving spouse of a member whose benefit terminated because of remarriage shall have the benefit reinstated beginning May 1, 1992, at an amount which would have been payable had the benefit not been terminated.*

Section 10. Subsection (12) of section 121.40, Florida Statutes, as amended by section 11 of chapter 92-122, Laws of Florida, and section 61 of chapter 92-279, Laws of Florida, is amended to read:

121.40 Cooperative extension personnel at the Institute of Food and Agricultural Sciences; supplemental retirement benefits.—

(12) CONTRIBUTIONS.—

(a) For the purposes of funding the supplemental benefits provided by this section, the institute is authorized and required to pay, commencing July 1, 1985, the necessary monthly contributions from its appropriated budget. These amounts shall be paid into the Institute of Food and Agricultural Sciences Supplemental Retirement Trust Fund, which is hereby created.

(b) The monthly contributions required to be paid pursuant to paragraph (a) on the gross monthly salaries, from all sources with respect to such employment, paid to those employees of the institute who hold both state and federal appointments and who participate in the federal Civil Service Retirement System shall be as follows:

Dates of Contribution Rate Changes	Percentage Due
July 1, 1985, through December 31, 1988	6.68%
Effective January 1, 1989, through December 31, 1992	6.35%
Effective January 1, 1993	6.69%

Section 11. Paragraph (b) of subsection (1) of section 122.08, Florida Statutes, as amended by section 1 of chapter 92-139, Laws of Florida, is amended to read:

122.08 Requirements for retirement; classifications.—There shall be two retirement classifications for all state and county officers and employees participating herein as hereafter provided in this section:

(1)

(b) Notwithstanding any provision of this chapter to the contrary, effective July 1, 1992 ~~January 1, 1993~~, the normal retirement age for a member under this chapter is attained upon the member's completion of 30 years of creditable service in the aggregate.

Section 12. Subsection (1) of section 122.35, Florida Statutes, as amended by section 2 of chapter 92-139, Laws of Florida, is amended to read:

122.35 Funding.—

(1) Commencing July 1, 1967, for all state agencies and commencing October 1, 1967, for all other agencies with employees who are members under this chapter, former ss. 122.17 and 122.30(4) shall be of no further force and effect and each officer or board paying salaries to members and withholding contributions required of members under this chapter for purposes of providing retirement benefits and social security benefits to or on behalf of such members, shall budget, set aside and pay over to account B of the intangible tax trust fund, herein created, matching payments in the following specified amounts:

(a)1. An amount equal to the amount of member contributions paid to the State and County Officers and Employees' Retirement Trust Fund as specified in ss. 122.03 and 122.27 but excluding any additional contributions required of high hazard members under s. 122.34; and

2. Commencing July 1, 1992 January 1, 1993, an additional amount equal to 3.99 percent of each installment of salary to members; and

(b) An amount equal to the amount of member contributions paid to the Social Security Contribution Trust Fund as specified in s. 122.27.

Section 13. (1) All statutory powers, duties, and functions, and the records, personnel, property, and unexpended balances of appropriations, allocations, or other funds related thereto, of the Department of Insurance which pertain to chapter 175 or chapter 185, Florida Statutes, are transferred by a type four transfer, as defined in section 20.06, Florida Statutes, to the Department of Administration and assigned to the Division of Retirement; and the Bureau of Municipal Police Officers' and Firefighters' Pension Funds of the Division of Benefits of the Department of Insurance is abolished. All rules of the Department of Insurance pertaining to powers, duties, and functions assigned to the Division of Retirement by this act shall continue in effect as rules of that division until changed or repealed by the division.

(2) Effective when the transfer of the Division of Retirement to the Department of Management Services by chapter 92-279, Laws of Florida, occurs, all statutory powers, duties, and functions relating to chapter 175 or chapter 185, Florida Statutes, which are assigned to the Division of Retirement by this or any other section of this act, together with the records, personnel, property, and unexpended balances of appropriations, allocations, or other funds related thereto, shall accompany the transfer of the division to the Department of Management Services by that act and are assigned to the Division of Retirement of that department.

Section 14. Section 175.021, Florida Statutes, is amended to read:

175.021 Legislative declaration.—It is hereby declared by the Legislature that firefighters, as hereinafter defined, perform state and municipal functions; that it is their duty to extinguish fires, to protect life, and to protect property at their own risk and peril; that it is their duty to prevent conflagration and to continuously instruct school personnel, public officials, and private citizens in the prevention of fires and firesafety; that they protect both life and property from local emergencies as defined in s. 252.34(2); and that their activities are vital to the public safety. *It is further declared that firefighters employed by special fire control districts serve under the same circumstances and perform the same duties as firefighters employed by municipalities and should therefore be entitled to the benefits available under this chapter.* Therefore, the Legislature declares that it is a proper and legitimate state purpose to provide a uniform retirement system for the benefit of firefighters as hereinafter defined and intends, in implementing the provisions of s. 14, Art. X of the State Constitution as they relate to municipal and special district firefighters' pension trust fund systems and plans, that such retirement systems or plans be managed, administered, operated, and funded in such manner as to maximize the protection of the firefighters' pension trust funds. This chapter hereby establishes minimum standards for the operation and funding of municipal and special district firefighters' pension trust fund systems and plans, *hereinafter referred to as firefighters' pension trust funds.*

Section 15. Section 175.032, Florida Statutes, is amended to read:

175.032 Definitions.—The following words and phrases used in this chapter ~~act~~ shall have the following meanings, unless a different meaning is plainly required by the context:

(1)(5)(a) "Aggregate number of years of service ~~with the municipality~~" means the total number of years, and fractional parts of years, of service of any firefighter, omitting intervening years and fractional parts of years, when such firefighter may not be employed by the municipality or special fire control district. However, no firefighter will receive credit for years or fractional parts of years of service for which he has withdrawn his contributions to the fund for those years or fractional parts of years of service, unless the firefighter repays into the fund the contributions he has withdrawn, with interest, within 90 days after his reemployment. Further, a firefighter may voluntarily leave his contributions in the fund for a period of 5 years after leaving the employ of the fire department, pending the possibility of his being rehired by the same department and remaining employed for a period of not less than 3 years, without losing credit for the time he has participated actively as a firefighter. If he does not remain employed for a period of at least 3 years as a firefighter, with the same department upon reemployment, within 5 years, his contributions shall be returned to him without interest.

(b) In determining the aggregate number of years of service of any firefighter, the time spent in the military service of the Armed Forces of the United States, or the United States Merchant Marine, while on official leave of absence in the event of a national emergency, shall be added to the years of actual service. However, credit for such military service shall not exceed 5 years. Further, to receive credit for such service:

1. The firefighter must return to his employment as a firefighter of the municipality or special fire control district within 1 year from the date of his release from such active service; and

2. The firefighter must contribute into the fund the same sum which he would have contributed if he had remained a firefighter. Further, a request for credit for such military service must be made by the firefighter within 90 days after reentering the service of the fire department from such leave of absence granted, or such military service credit shall be forfeited forever.

(2)(a) "Average final compensation for a full-time firefighter" means one-twelfth of the average annual compensation of the 5 best years of the last 10 years of creditable service prior to retirement, termination, or death or the career average as a full-time firefighter since July 1, 1953, whichever is greater. A year shall be 12 consecutive months.

(b) "Average final compensation for a volunteer firefighter" means the average salary of the 10 best contributing years prior to change in status to a permanent full-time firefighter or retirement as a volunteer firefighter or the career average of a volunteer firefighter, since July 1, 1953, whichever is greater.

(3) "Division" means:

(a) Before the merger of the Department of Administration and the Department of General Services, the Division of Retirement of the Department of Administration.

(b) After the merger of the Department of Administration and the Department of General Services, the Division of Retirement of the Department of Management Services.

(4)(6) "Enrolled actuary" means an actuary who is enrolled under Subtitle C of Title III of the Employee Retirement Income Security Act of 1974 and who is a member of the Society of Actuaries or the American Academy of Actuaries.

(5)(4)(a) "Firefighter" means any person employed solely in a constituted fire department of any municipality, or special fire control district ~~established by this state law prior to 1963~~, who is certified as a firefighter as a condition of employment in accordance with the provisions of s. 633.35 and whose duty it is to extinguish fires, to protect life, and to protect property. However, for purposes of this chapter only, "firefighter" also includes public safety officers who are responsible for performing both police and fire services, who are certified as police officers or firefighters, and who are certified by their employers to the Insurance Commissioner and Treasurer as participating in this chapter prior to October 1, 1979. Effective October 1, 1979, public safety officers who have not been certified as participating in this chapter shall be considered police officers for retirement purposes and shall be eligible to participate in chapter 185.

(b) "Volunteer firefighter" means any person whose name is carried on the active membership roll of a constituted volunteer fire department or a combination of a paid and volunteer fire department of any municipi-

pality or special fire control district and whose duty it is to extinguish fires, to protect life, and to protect property. Compensation for services rendered by a volunteer firefighter shall not disqualify him as a volunteer. A person shall not be disqualified as a volunteer firefighter solely because he has other gainful employment. Any person who volunteers assistance at a fire but is not an active member of a department described herein is not a volunteer firefighter within the meaning of this paragraph.

(6)(4) "Property insurance" means property insurance as defined in s. 624.604 and covers real and personal property within the corporate limits of any municipality, or within the boundaries of any special fire control district, within the state. "Multiple peril" means a combination or package policy which includes both property and casualty coverage for a single premium.

(7)(3) "Salary" means the fixed monthly compensation paid a firefighter and where, as in the case of a volunteer firefighter, compensation is derived from actual services rendered, salary shall be the total cash compensation received yearly for such services, prorated on a monthly basis.

(8) "Special fire control district" means a special district, as defined in s. 189.403(1), established for the purposes of extinguishing fires, protecting life, and protecting property within the incorporated or unincorporated portions of any county or combination of counties, or within any combination of incorporated and unincorporated portions of any county or combination of counties. The term does not include any dependent or independent special district, as defined in s. 189.403(2) and (3), respectively, the employees of which are members of the Florida Retirement System pursuant to s. 121.051(1) or (2).

Section 16. Section 175.041, Florida Statutes, is amended to read:

175.041 ~~Municipal~~ Firefighters' Pension Trust Fund created; applicability of provisions.—

(1) There is hereby created a special fund to be known as the "Municipal Firefighters' Pension Trust Fund," exclusively for the purpose of this chapter ~~aet~~, in each municipality and each special fire control district of this state heretofore or hereafter created which now has or which may hereafter have a constituted fire department or an authorized volunteer fire department, or any combination thereof, and which municipality or special fire control district does not presently have established by law, special law, or local ordinance a similar fund.

(2) To qualify as a fire department or volunteer fire department or combination thereof under the provisions of this chapter, the department shall own and use apparatus for the fighting of fires that is in compliance with National Fire Protection Association Standards for Automotive Fire Apparatus.

(3) The provisions of this chapter ~~aet~~ shall apply only to municipalities organized and established pursuant to the laws of the state and to special fire control districts, and said provisions shall not apply to the unincorporated areas of any county or counties ~~except with respect to special fire control districts that include unincorporated areas~~, nor shall the provisions hereof apply to any governmental entity whose employees ~~participate are eligible for membership in the Florida a state or state and county Retirement System. Special fire control districts that include, or consist exclusively of, unincorporated areas of one or more counties may levy and impose the tax and participate in the retirement programs enabled by this chapter.~~

(4) No municipality shall establish more than one retirement plan for public safety officers which is supported in whole or in part by the distribution of premium tax funds as provided by this chapter or chapter 185, nor shall any municipality establish a retirement plan for public safety officers which receives premium tax funds from both this chapter and chapter 185.

Section 17. Subsection (1) of section 175.061, Florida Statutes, is amended to read:

175.061 Board of trustees; members, terms of office.—

(1) In each municipality and in each special fire control district there is hereby created a board of trustees of the ~~municipal~~ firefighters' pension trust fund, which shall be solely responsible for administering the trust fund. ~~Effective October 1, 1986, and thereafter,~~ The board of trustees shall consist of five members, two of whom, unless otherwise prohibited by law, shall be legal residents of the municipality or special fire

control district, who shall be appointed by the governing legislative body of the municipality or special fire control district, and two of whom shall be full-time firefighters as defined in s. 175.032(4) who shall be elected by a majority of the firefighters who are members of such plan. The fifth member shall be chosen by a majority of the previous four members as provided for herein, and such person's name shall be submitted to the governing legislative body of the municipality or special fire control district. Upon receipt of the fifth person's name, the governing legislative body of the municipality or special fire control district shall, as a ministerial duty, appoint such person to the board of trustees as its fifth member. The fifth member shall have the same rights as each of the other four members appointed or elected as herein provided and may succeed himself in office. Each resident member shall serve as trustee for a period of 2 years, unless sooner replaced by the governing legislative body at whose pleasure he shall serve, and may succeed himself as a trustee. ~~However, the terms of the mayor, or corresponding chief executive officer of the municipality, and the chief of the fire department as members of the board of trustees as provided in chapter 63-249, Laws of Florida, as amended, together with any city manager and member of the legislative body of the municipality as members of the board of trustees shall terminate on September 30, 1986.~~ Each firefighter member shall serve as trustee for a period of 2 years, unless he sooner leaves the employment of the municipality or special fire control district as a firefighter, whereupon the legislative body of the municipality shall choose his successor shall be chosen in the same manner as an original appointment. Each firefighter may succeed himself in office. The board of trustees shall meet at least quarterly each year. Each board of trustees shall be a legal entity with, in addition to other powers and responsibilities contained herein, the power to bring and defend lawsuits of every kind, nature, and description.

Section 18. Paragraphs (a), (b), and (c) of subsection (1) and subsections (4) and (5) of section 175.071, Florida Statutes, are amended to read:

175.071 Powers of board of trustees.—

(1) The board of trustees may:

(a) Invest and reinvest the assets of the ~~municipal~~ firefighters' pension trust fund in annuity and life insurance contracts of life insurance companies in amounts sufficient to provide, in whole or in part, the benefits to which all of the participants in the ~~municipal~~ firefighters' pension trust fund shall be entitled under the provisions of this chapter ~~aet~~ and pay the initial and subsequent premiums thereon.

(b) Invest and reinvest the assets of the ~~municipal~~ firefighters' pension trust fund in:

1. Time or savings accounts of a national bank, a state bank insured by the Federal Deposit Insurance Corporation, or a savings, building and loan association insured by the Federal Savings and Loan Insurance Corporation.

2. Obligations of the United States or obligations guaranteed as to principal and interest by the Government of the United States.

3. Bonds issued by the State of Israel.

4. Bonds, stocks, or other evidences of indebtedness issued or guaranteed by a corporation organized under the laws of the United States, any state or organized territory of the United States, or the District of Columbia, provided:

a. The corporation is listed on any one or more of the recognized national stock exchanges and holds a rating in one of the three highest classifications by a major rating service; and

b. The board of trustees shall not invest more than 5 percent of its assets in the common stock or capital stock of any one issuing company, nor shall the aggregate investment in any one issuing company exceed 5 percent of the outstanding capital stock of that company or the aggregate of its investments under this subparagraph at cost exceed 30 percent of the assets of the fund.

This paragraph shall apply to all boards of trustees and participants. However, in the event that a municipality or special fire control district has a duly enacted pension plan pursuant to, and in compliance with, s. 175.351, and the trustees thereof desire to vary the investment procedures herein, the trustees of such plan shall request a variance of the investment procedures as outlined herein only through a municipal ordi-

nance, ~~or~~ special act of the Legislature, or resolution by the governing body of the special fire control district; where a special act, or a municipality by ordinance adopted prior to October 1, 1986, permits a greater than 30-percent equity investment, such municipality shall not be required to comply with the aggregate equity investment provisions of this paragraph. Investments shall not be made in any stocks, bonds, or other securities owned or controlled by a government other than that of the United States or the several states.

(c) Issue drafts upon the ~~municipal~~ firefighters' pension trust fund pursuant to this act and rules and regulations prescribed by the board of trustees. All such drafts shall be consecutively numbered, be signed by the chairman and secretary, and state upon their faces the purpose for which the drafts are drawn. The treasurer or depository of each municipality or special fire control district shall retain such drafts when paid, as permanent vouchers for disbursements made, and no money shall be otherwise drawn from the fund.

(4) The sole and exclusive administration of, and the responsibilities for, the proper operation of the ~~municipal~~ firefighters' pension trust fund and for making effective the provisions of this chapter ~~are~~ are vested in the board of trustees; however, nothing herein shall empower a board of trustees to amend the provisions of a retirement plan without the approval of the municipality or special fire control district. The board of trustees shall keep in convenient form such data as shall be necessary for an actuarial valuation of the ~~municipal~~ firefighters' pension trust fund and for checking the actual experience of the fund.

(5) At least once every 3 years, the board of trustees shall retain an independent consultant professionally qualified to evaluate the performance of professional money managers. The independent consultant shall make recommendations to the board of trustees regarding the selection of money managers for the next investment term. These recommendations shall be considered by the board of trustees at its next regularly scheduled meeting. The date, time, place, and subject of this meeting shall be advertised in a newspaper of general circulation in the municipality or special fire control district, as appropriate, at least 10 days prior to the date of the hearing.

Section 19. Subsections (1), (3), (7), and (8) of section 175.081, Florida Statutes, are amended to read:

175.081 Use of annuity or insurance policies.—When the board of trustees purchases annuity or life insurance contracts to provide all or any part of the benefits as provided for by this act, the following principles shall be observed:

(1) Only those firefighters who have been members of the ~~municipal~~ firefighters' pension trust fund for 1 year or more may participate in the insured plan.

(3) Each application and policy shall designate the ~~municipal~~ firefighters' pension trust fund as owner of the policy.

(7) An insurance plan may provide that the assignment of insurance contract to separating firefighters shall be at least equivalent to the return of the firefighters' contributions used to purchase the contract. An assignment of contract discharges the municipality or special fire control district, as appropriate, from all further obligation to the participant under the plan even though the cash value of such contract may be less than the firefighters' contributions.

(8) Provisions shall be made, either by issuance of separate policies or otherwise, that the separating firefighter does not receive cash value and other benefits under the policies assigned to him which exceed the present value of his vested interest under the ~~municipal~~ firefighters' pension trust fund, inclusive of his contribution to the plan; the contributions by the state shall not be exhausted faster merely because the method of funding adopted was through insurance companies.

Section 20 Section 175.091, Florida Statutes, is amended to read:

175.091 Creation and maintenance of fund.—

(1) The ~~municipal~~ firefighters' pension trust fund in each municipality and in each special fire control district shall be created and maintained in the following manner:

(a) By payment to the fund of the net proceeds of the 1.85-percent ~~2-percent~~ excise or other similar tax which may be imposed by the municipality or special fire control district ~~respective municipalities~~

upon fire insurance companies, fire insurance associations, or other property insurers on their gross receipts on premiums from holders of policies, which policies cover real or personal property within the corporate limits of such municipality, in the case of a municipal government, and within the legally defined jurisdiction of the district, in the case of a special fire control district. Whenever a municipality maintains a firefighters' pension trust fund under the provisions of this chapter but is partially contained within the boundaries of a special fire control district, that portion of the 1.85-percent excise, license, or other similar tax which is collected for insurance policies covering property within the jurisdiction of both the municipality and the special fire control district shall be given to the firefighters' pension trust fund of the fire service provider. Remaining revenues collected pursuant to this chapter shall be distributed to the municipality or special fire control district according to the location of the insured property ~~municipalities, as is hereinafter expressly authorized.~~

(b) By the payment to the fund of 5 percent of the salary of each uniformed firefighter who is a member or duly enrolled in the fire department of any municipality or special fire control district, which 5 percent shall be deducted by the municipality or special fire control district from the compensation due to the firefighter and paid over to the board of trustees of the ~~municipal~~ firefighters' pension trust fund wherein such firefighter is employed. ~~A firefighter participating in the old age survivors insurance of the federal Social Security Law may limit his contribution to the municipal firefighters' pension trust fund to 3 percent of his annual compensation and receive reduced benefits as set forth in s. 175.211 and s. 175.191(5). No firefighter shall have any right to the money so paid into the fund except as provided in this chapter.~~

(c) By all fines and forfeitures imposed and collected from any firefighter because of the violation of any rule and regulation promulgated by the board of trustees.

(d) By mandatory payment by the municipality or special fire control district of a sum equal to the normal cost and the amount required to fund over a period of 40 years or on a 40-year basis, any actuarial deficiency shown by a quinquennial actuarial valuation. The first such actuarial valuation shall be conducted for the calendar year ending December 31, 1967.

(e) By all gifts, bequests, and devises when donated to the fund.

(f) By all accretions to the fund by way of interest or dividends on bank deposits, or otherwise.

(g) By all other sources or income now or hereafter authorized by law for the augmentation of such ~~municipal~~ firefighters' pension trust fund.

(2) Under no circumstances may a municipality or special fire control district reduce the member contribution to less than 1 percent of salary.

Section 21. Section 175.101, Florida Statutes, is amended to read:

175.101 State excise tax on property insurance premiums authorized; procedure.—Each municipality or special fire control district in this state described and classified in s. 175.041, having a lawfully established ~~municipal~~ firefighters' pension trust fund or municipal fund or special fire control district fund providing pension benefits to firefighters by whatever name known, may assess and impose on every insurance company, corporation, or other insurer now engaged in or carrying on, or who shall hereinafter engage in or carry on, the business of property insurance as shown by the records of the Department of Insurance an excise tax in addition to any lawful license or excise tax now levied by each of the municipalities or special fire control districts, respectively, amounting to 1.85 percent of the gross amount of receipts of premiums from policyholders on all premiums collected on property insurance policies covering property within the corporate limits of such municipalities or within the legally defined boundaries of special fire control districts, respectively. Whenever the boundaries of a special fire control district that has lawfully established a firefighters' pension trust fund encompass a portion of the corporate territory of a municipality that has also lawfully established a firefighters' pension trust fund, that portion of the tax receipts attributable to insurance policies covering property situated both within the municipality and the special fire control district shall be given to the fire service provider. The agent shall identify the fire service provider on the property owner's application for insurance. Remaining revenues collected pursuant to this chapter shall be distributed to the municipality or special fire control district according to the location of the insured property. In the case of multiple peril policies

with a single premium for both the property and casualty coverages in such policies, 70 percent of such premium shall be used as the basis for the 1.85-percent tax. This excise tax shall be payable annually on March 1 of each year after the passage of an ordinance, *in the case of a municipality, or resolution, in the case of a special fire control district*, assessing and imposing the tax ~~herein~~ authorized by this section. Installments of taxes shall be paid according to the provision of s. 624.5092(2)(a), (b), and (c).

Section 22. Section 175.111, Florida Statutes, is amended to read:

175.111 Certified copy of ordinance or resolution filed; insurance companies' annual report of premiums; duplicate files; book of accounts.—Whenever any municipality ~~passes~~ *passes* an ordinance, or whenever any special fire control district ~~passes~~ *passes* a resolution, assessing and imposing the taxes authorized in s. 175.101, a certified copy of such ordinance or resolution shall be deposited with ~~both the division Department of Banking and Finance and the Department of Insurance~~, and thereafter every insurance company, association, corporation, or other insurer carrying on the business of property insurance on real or personal property, on or before the succeeding March 1 after date of the passage of the said ordinance or resolution, shall report fully in writing and under oath to the ~~division Department of Banking and Finance and the Department of Revenue Insurance~~, a just and true account of all premiums by such insurer received for property insurance policies covering or insuring any real or personal property located within the corporate limits of each such municipality or special fire control district during the period of time elapsing between the date of the passage of the said ordinance or resolution and the succeeding March 1. The said report shall include the city code designation as prescribed by the insurance commission for each piece of insured property, real or personal, located within the corporate limits of each municipality and within the legally defined boundaries of each special fire control district. The aforesaid insurer shall annually thereafter, on March 1, file with the ~~division and the Department of Revenue same departments~~, a similar report covering the preceding year's premium receipts, and every such insurer at the same time of making such reports shall pay to the ~~Department of Revenue Insurance Commissioner and Treasurer~~ the amount of the tax hereinbefore mentioned. Every insurer engaged in carrying on such insurance business in the state shall keep accurate books of accounts of all such business done by it within the corporate limits of each such municipality and within the legally defined boundaries of each such special fire control district, and in such manner as to be able to comply with the provisions of this chapter section. Based on the insurers' reports of premium receipts, the division shall prepare a consolidated premium report and ~~The Department of Insurance~~ shall furnish to any municipality or special fire control district requesting the same a copy of the relevant section of that report ~~any of the reports filed by insurers under this section~~.

Section 23. Section 175.121, Florida Statutes, is amended to read:

175.121 ~~Department of Revenue and Division of Retirement Insurance Commissioner and Treasurer~~ to keep accounts of deposits; disbursements; investments by State Board of Administration.—

(1) The Department of Revenue ~~Insurance Commissioner and Treasurer of the state~~ shall keep a separate account of all moneys collected for each municipality and each special fire control district under the provisions of this chapter act. ~~Any and~~ All moneys so collected, ~~after deducting the necessary expenses incurred by the Department of Revenue Insurance in carrying out the provisions of this act~~, shall be paid into the Florida Protection of Public Employee Retirement Benefits ~~State Treasury in the Insurance Commissioner's Regulatory Trust Fund~~ and shall be separately accounted for by the division. The moneys budgeted as necessary to pay the expenses of the division for the daily oversight and monitoring of the firefighters' pension plans, and for the receipt, holding, and disbursement of premium tax moneys collected under this chapter, are annually appropriated to the division from the interest and investment earnings on the trust fund; and the moneys budgeted as necessary to pay the expenses of the State Board of Administration for investment of premium tax moneys collected under this chapter are annually appropriated to the state board from the interest and investment earnings on the trust fund. Any interest or investment earnings on the trust fund not appropriated to carry out the duties described in this subsection shall be transferred to the General Revenue Fund.

(2) The Comptroller shall, on or before June 1 of each year, and at such other times as the ~~division Treasurer~~ may elect, draw his warrants ~~warrant on the Insurance Commissioner and Treasurer~~ for the full net

amount of money then on deposit pursuant to this chapter ~~with the Insurance Commissioner and Treasurer in the Insurance Commissioner's Regulatory Trust Fund~~, specifying the municipalities and special fire control districts ~~municipality~~ to which the moneys must shall be paid and the net amount collected for and to be paid to each municipality or special fire control district, respectively, subject to the limitation on disbursement under s. 175.122. The sum ~~sums~~ payable to each such municipality or special fire control district is ~~are hereby~~ appropriated annually out of the Florida Protection of Public Employee Retirement Benefits ~~Insurance Commissioner's Regulatory Trust Fund~~. The warrants of the Comptroller shall be payable to the respective municipalities and special fire control districts ~~municipality~~ entitled to receive them and shall be remitted annually by the ~~division Department of Insurance~~ to the respective municipalities and special fire control districts ~~each municipality~~. In order for a the municipality or special fire control district and its the pension fund to participate in the distribution of premium tax moneys under this chapter, all the provisions of this chapter must shall be complied with annually, as determined by the division.

(3)(a) All moneys not distributed to municipalities and special fire control districts under this section as a result of the limitation on disbursement contained in s. 175.122, or as a result of any municipality or special fire control district not having qualified in any given year, or portion thereof, shall be transferred to the Firefighters' Supplemental Compensation Trust Fund administered by the Department of Revenue, as provided in s. 633.382.

(b)1. Moneys transferred under paragraph (a) but not needed to support the supplemental compensation program in a given year shall be redistributed pro rata to those participating municipalities and special fire control districts that transfer any portion of their funds to support the supplemental compensation program in that year. Such additional moneys shall be used to cover or offset costs of the retirement plan.

2. To assist the Department of Revenue, the division shall identify those municipalities and special fire control districts that are eligible for redistribution as provided in s. 633.382(4)(c)2., by listing the municipalities and special fire control districts from which funds were transferred under paragraph (a) and specifying the amount transferred by each.

Section 24. Section 175.122, Florida Statutes, is amended to read:

175.122 Limitation of disbursement.—Any municipality or special fire control district participating in the ~~municipal~~ firefighters' pension trust fund pursuant to the provisions of this chapter shall be limited to receiving any moneys from such fund in excess of that produced by one-half of the excise tax, as provided for in s. 175.101; however, any such municipality or special fire control district receiving less than 6 percent of its fire department payroll from such fund shall be entitled to receive from such fund the amount determined under s. 175.121, in excess of one-half of the excise tax, not to exceed 6 percent of its fire department payroll.

Section 25. Section 175.131, Florida Statutes, is amended to read:

175.131 Funds received by municipality or special fire control district; deposit in ~~municipal~~ firefighters' pension trust fund.—All state and other funds received by any municipality or special fire control district under the provisions of this chapter shall be deposited by such municipality or special fire control district immediately, and under no circumstances more than 5 days after receipt, with the board of trustees. Employee contributions, however, which are withheld by the employer on behalf of an employee member shall be deposited with the board of trustees of the ~~municipal~~ firefighters' pension trust fund at least monthly.

Section 26. Section 175.141, Florida Statutes, is amended to read:

175.141 Payment of excise tax credit on similar state excise or license tax.—The tax herein authorized to be imposed by each municipality and each special fire control district shall in nowise be in addition to any similar state excise or license tax imposed by part IV of chapter 624, but the payer of the tax hereby authorized shall receive credit therefor on his said state excise or license tax and the balance of said state excise or license tax shall be paid to the Insurance Commissioner and Treasurer as is now provided by law.

Section 27. Section 175.152, Florida Statutes, is amended to read:

175.152 Contributions.—Except as provided in s. 175.091(1)(b), the municipal or special fire control district officer or board paying salaries to firefighters entitled to the benefit of this chapter shall deduct 5 percent from each installment of salary of each firefighter so long as such firefighter shall hold office or be employed. The amount so deducted shall be deposited as provided in s. 175.301. Under no circumstances may a municipality or special fire control district reduce the member contribution to less than 1 percent of salary.

Section 28. Section 175.162, Florida Statutes, is amended to read:

175.162 Requirements for retirement.—Any firefighter who completes 10 or more years of creditable service as a firefighter and attains age 55, or completes 25 years of creditable service as a firefighter and attains age 52, and who for such minimum period has been a member of the municipal firefighters' pension trust fund is eligible for normal retirement benefits. Normal retirement under the plan is retirement from the service of the municipality or special fire control district on or after the normal retirement date. In such event, payment of retirement income will be governed by the following provisions of this section:

(1) The normal retirement date of each firefighter will be the first day of the month coincident with or next following the date on which he has completed 10 or more years of creditable service and attained age 55 or completed 25 years of creditable service and attained age 52.

(2)(a) The amount of monthly retirement income payable to a full-time firefighter who retires on or after his normal retirement date shall be an amount equal to the number of his years of credited service multiplied by 2 percent of his average final compensation as a full-time firefighter. The retirement income shall be reduced for moneys received under the disability provisions of this chapter. However, if current state contributions pursuant to this chapter are not adequate to fund the additional benefits to meet the minimum requirements in this chapter, only such incremental increment increases shall be required as state moneys are adequate to provide. Such increments shall be provided as state moneys become available.

(b) The amount of monthly retirement income payable to a volunteer firefighter who retires on or after his normal retirement date shall be an amount equal to the number of his years of credited service multiplied by 2 percent of his average final compensation as a volunteer firefighter. If the firefighter has been contributing only 3 percent of his salary, his monthly retirement income shall be an amount equal to the number of his years of credited service multiplied by 1.2 percent of his average final compensation.

(3) The monthly retirement income payable in the event of normal retirement will be payable on the first day of each month. The first payment will be made on the firefighter's normal retirement date, or on the first day of the month coincident with or next following his actual retirement, if later, and the last payment will be the payment due next preceding the firefighter's death; except that, in the event the firefighter dies after his retirement but before he has received retirement benefits for a period of 10 years, the same monthly benefit will be paid to the beneficiary (or beneficiaries) as designated by the firefighter for the balance of such 10-year period. If a firefighter continues in the service of the municipality or special fire control district beyond his normal retirement date and dies prior to his date of actual retirement, without an option made pursuant to s. 175.171 being in effect, monthly retirement income payments will be made for a period of 10 years to a beneficiary (or beneficiaries) designated by the firefighter as if the firefighter had retired on the date on which his death occurred.

(4) Early retirement under the plan is retirement from the service of the municipality or special fire control district, with the consent of the municipality or special fire control district, as of the first day of any calendar month which is prior to the firefighter's normal retirement date but subsequent to the date as of which he has both attained the age of 50 years and has been a member of this fund for 10 continuous years. In the event of early retirement, payment of retirement income shall be governed as follows: the monthly amount of retirement income payable to a firefighter who retires prior to his normal retirement date shall be in the amount computed as described in subsection (2), taking into account his credited service to his date of actual retirement and his final monthly compensation as of such date, such amount of retirement income to be actuarially reduced to take into account the firefighter's younger age and the earlier commencement of retirement income benefits. The amount of monthly income payable in the event of early retirement will be paid in the same manner as in subsection (3). In no event shall the early retirement reduction exceed 3 percent for each year by which the member's age at retirement preceded the member's normal retirement age.

Section 29. Subsections (1) and (5) of section 175.191, Florida Statutes, are amended to read:

175.191 Disability retirement.—

(1) A firefighter having 10 or more continuous years of credited service and having contributed to the municipal firefighters' pension trust fund for 10 years or more may retire from the service of the municipality or special fire control district under the plan if, prior to his normal retirement date, he becomes totally and permanently disabled as defined in subsection (2) by reason of any cause other than a cause set out in subsection (3) on or after the effective date of the plan. Such retirement shall herein be referred to as "disability retirement." The provisions for disability other than line-of-duty disability shall not apply to a member who has reached early or normal retirement age.

(5) The benefits payable to a firefighter who retires from the service of a municipality or special fire control district due to total and permanent disability as a direct result of a disability commencing prior to his normal retirement date is the monthly income payable for 10 years certain and life for which, if the firefighter's disability occurred in the line of duty, his monthly benefit shall be the accrued retirement benefit, but shall not be less than 42 percent of his average monthly salary at the time of disability. If after 10 years of service the disability is other than in the line of duty, the firefighter's monthly benefit shall be the accrued normal retirement benefit, but shall not be less than 25 percent of his average monthly salary at the time of disability.

Section 30. Section 175.201, Florida Statutes, is amended to read:

175.201 Death prior to retirement; refunds of contributions; death benefits.—If a firefighter dies before being eligible to retire under the provisions of this act, the heirs, legatees, beneficiaries, or personal representatives of such deceased firefighter shall be entitled to a refund of 100 percent, without interest, of the contributions made to the municipal firefighters' pension trust fund by such deceased firefighter or, in the event an annuity or life insurance contract has been purchased by the board of trustees on such firefighter, then to the death benefits available under such life insurance or annuity contract subject to the limitations on such death benefits set forth in s. 175.081, whichever amount is greater. If a firefighter dies prior to retirement but has at least 10 years of contributing service, his beneficiary is entitled to the benefits otherwise payable to the firefighter at early or normal retirement age. In the event that the death benefit paid by a life insurance company exceeds the limit set forth in s. 175.081, the excess of the death benefit over the limit shall be paid to the municipal firefighters' pension trust fund. However, the benefits as provided in s. 112.191 shall not be included as death or retirement benefits under the provisions of chapter 86-41, Laws of Florida.

Section 31. Section 175.211, Florida Statutes, is amended to read:

175.211 Separation from service; refunds.—If a firefighter leaves the service of the municipality or special fire control district before accumulating aggregate time of 10 years toward retirement and before being eligible to retire under the provisions of this chapter act, he shall be entitled to a refund of all of his contributions made to the municipal firefighters' pension trust fund after July 1, 1963, without interest, less any disability benefits paid to him after July 1, 1963. If a firefighter who has been in the service of the municipality or special fire control district for at least 10 years and has contributed to the municipal firefighters' pension trust fund for at least 10 years elects to leave his accrued contributions in the municipal firefighters' pension trust fund, such firefighter upon attaining the age of 50 years may retire at the actuarial equivalent of the amount of such retirement income otherwise payable to him.

Section 32. Section 175.251, Florida Statutes, is amended to read:

175.251 Employment records required to be kept by secretary of board of trustees.—The secretary of the board of trustees shall keep a record of all persons receiving retirement payments under the provisions of this chapter act, in which shall be noted the time when the pension is allowed and when the pension shall cease to be paid. In this record, the secretary shall keep a list of all firefighters employed by the municipality or special fire control district. The record shall be kept in such manner as to show the name, address, and time of employment of such firefighters and when they cease to be employed by the municipality or special fire control district.

Section 33. Section 175.261, Florida Statutes, is amended to read:

175.261 *Annual report to Division of Retirement; actuarial reports Department of Insurance.*—

(1) Each year, by February 1, the chairman or secretary of the board of trustees of each ~~municipal~~ firefighters' pension trust fund shall file a report with the ~~division which contains Department of Insurance, containing the following:~~

(a) A statement of whether in fact the municipality or special fire control district is within the provisions of s. 175.041.

(b) An independent audit by a certified public accountant if the fund has \$100,000 or more in assets, or a certified statement of accounting if the fund has less than \$100,000 or more in assets, for the most recent fiscal year of the municipality or special fire control district, showing a detailed listing of assets and methods used to value them and a statement of all income and disbursements during the year. Such income and disbursements shall be reconciled with the assets at the beginning of and end of the year.

(c) A statistical exhibit showing the total number of firefighters on the force, the number included in the retirement plan and the number ineligible, classified according to the reason for their being ineligible, and the number of disabled firefighters and retired firefighters and their beneficiaries receiving pension payments and the amounts of annual retirement income or pension payments being received by them.

(d) A statement of the amount the municipality or special fire control district, or other income source, has contributed to the retirement fund for the most recent fiscal year and the amount the municipality or special fire control district will contribute to the retirement fund during its current fiscal year.

(e) If any benefits are insured with a commercial insurance company, the report should include a statement of the relationship of the insured benefits to the benefits provided by this chapter ~~act~~ as well as the name of the insurer and information about the basis of premium rates, mortality table, interest rates, and method used in valuing retirement benefits.

(2) By February 1 of each triennial year, beginning with February 1, 1986, and at least every 3 years commencing from the last actuarial report of the plan or system or from February 1, 1987, if no actuarial report has been issued within the 3-year period prior to February 1, 1986, the chairman of each ~~municipal~~ firefighters' pension trust fund shall report to the ~~division Department of Insurance~~ such data that it needs to complete an actuarial valuation of each fund. The forms for each municipality and special fire control district shall be supplied by the ~~division department~~. The expense of this actuarial valuation shall be borne by the ~~municipal~~ firefighters' pension trust fund established by ss. 175.041 and 175.121.

Section 34. Section 175.291, Florida Statutes, is amended to read:

175.291 Attorney for municipality or special fire control district to represent board of trustees upon request; option to employ independent counsel and other persons.—The ~~city~~ attorney of each municipality or special fire control district shall give advice to the board of trustees in all matters pertaining to its duties in the administration of the ~~municipal~~ firefighters' pension trust fund whenever requested; and he shall represent and defend the board as its attorney in all suits and actions at law or in equity that may be brought against it and bring all suits and actions in its behalf that may be required or determined upon by the board. However, if the board of trustees so elects, it may employ independent legal counsel at the pension fund's expense for the purposes contained herein, together with such other professional, technical, or other advisers as the board deems necessary. This section shall specifically apply to all funds receiving state moneys pursuant to this chapter.

Section 35. Section 175.301, Florida Statutes, is amended to read:

175.301 Depository for pension funds.—All funds and securities of the ~~municipal~~ firefighters' pension trust fund may be deposited by the board of trustees with the treasurer of the municipality or special fire control district, acting in a ministerial capacity only, who shall be liable in the same manner and to the same extent as he is liable for the safe-keeping of funds for the municipality or special fire control district. However, any funds and securities so deposited with the treasurer of the municipality or special fire control district shall be kept in a separate fund by the ~~municipal~~ treasurer or clearly identified as such funds and securities of the ~~municipal~~ firefighters' pension trust fund. In lieu thereof, the board of trustees shall deposit the funds and securities of the ~~municipal~~ firefighters' pension trust fund in a qualified public depository

as defined in s. 280.02, which depository with regard to such funds and securities shall conform to and be bound by all of the provisions of chapter 280.

Section 36. Section 175.311, Florida Statutes, is amended to read:

175.311 Municipalities, special fire control districts, and boards independent of other municipalities and boards and of each other.—In the enforcement and in the interpretation of the provisions of this chapter, each municipality and each special fire control district shall be independent of any other municipality or special fire control district, and the board of trustees of the ~~municipal~~ firefighters' pension trust fund of each municipality and each special fire control district shall function for the municipality or special fire control district which it serves ~~is to~~ serve as trustee. Each board of trustees shall be independent of the ~~each~~ municipality or special fire control district for which it serves as board of trustees to the extent required to accomplish the intent, requirements, and responsibilities provided for in this chapter.

Section 37. Section 175.321, Florida Statutes, is amended to read:

175.321 Application of ss. 175.101-175.121, 175.131-175.151.—Sections 175.101-175.121 and 175.131-175.151 ~~are shall be~~ applicable in relation to each municipality or special fire control district ~~all municipalities~~ of the state which now has ~~have~~ or hereafter establishes ~~establish~~ a ~~municipal~~ firefighters' pension trust fund or a pension fund for firefighters, regardless of whether the municipality or special fire control district falls ~~shall fall~~ within the classification of s. 175.041 and has ~~have~~ its ~~municipal~~ firefighters' pension trust fund established under the provisions thereof, or whether the pension fund of the municipality or special fire control district exists ~~shall exist~~ under other general or special laws of the state, or a local ordinance, or by rule of the Governor and Cabinet. The remaining sections of this chapter ~~act~~, which apply specifically to the creation of a board of trustees, define its powers, and establish a ~~municipal~~ firefighters' pension trust fund in each municipality or special fire control district, as well as such sections as define the person who shall be entitled to a pension out of such fund and the amount thereof, govern the conditions upon which such pensions shall be allowed, and define the duties of the officers of those municipalities or special fire control districts in relation to such fund, shall not apply to any municipality which had a ~~municipal~~ firefighters' pension trust fund or municipal pension fund for firefighters and police officers on July 1, 1963, or to any special fire control district which now has a ~~municipal~~ firefighters' pension trust fund or ~~municipal~~ pension fund for firefighters and policemen.

Section 38. Section 175.341, Florida Statutes, is amended to read:

175.341 Duties of Division of Retirement and State Board of Administration; rulemaking authority ~~Department of Insurance to establish rules and regulations.~~—

(1) The Division of Retirement shall be responsible for the daily oversight and monitoring for actuarial soundness of the firefighters' pension plans established under this chapter; for receiving and holding the premium tax moneys collected under this chapter; and for disbursing those moneys to the firefighters' pension plans.

(2) The Division of Retirement ~~Department of Insurance~~ shall adopt ~~establish~~ rules and regulations pertaining to the operation of this chapter fund.

(3) The State Board of Administration shall invest and reinvest the funds of the trust fund collected under this chapter in accordance with ss. 215.44-215.53.

Section 39. Section 175.351, Florida Statutes, is amended to read:

175.351 Municipalities and special fire control districts having their own pension plans for firefighters.—In order for municipalities and special fire control districts with their own pension plans for firefighters or for firefighters and other employees to participate in the distribution of the tax fund established in ss. 175.101-175.121 and 175.131-175.151, their pension funds must meet each of the following standards, as determined by the division:

(1) The plan must be for the purpose of providing retirement and disability income for firefighters or their beneficiaries.

(2) The normal retirement age, if any, must not be more than age 60.

(3) If the plan provides for a stated period of service as a requirement to receive a retirement income, that period must not be more than 30 years.

(4) The benefit formula to determine the amount of monthly pension must be equal to at least 2 percent for each year of the firefighter's credited service, multiplied by his average final compensation. However, if current state contributions pursuant to this chapter are not adequate to fund the additional benefits to meet the minimum requirements in this chapter, only increment increases shall be required as state moneys are adequate to provide. Such increments shall be provided as state moneys become available.

(5) If a ceiling on the monthly payment is stated in the plan, it should be no lower than \$100.

(6) Death or survivor benefits and disability benefits may be incorporated into the plan as the municipalities or special fire control districts wish, but in no event should the single-sum value of such benefits as of the date of termination of service because of death or disability exceed:

(a) One hundred times the estimated normal retirement income, based on the assumption that the present rate of compensation continues without change to normal retirement date,

(b) Twice the annual rate of compensation as of date of termination of service, or

(c) The single-sum value of the accrued deferred retirement income (beginning at normal retirement date) at date of termination of service, whichever is greatest; however, nothing in this subsection paragraph shall require any reduction in death or disability benefits provided by a retirement plan in effect prior to July 1, 1963.

(7) Eligibility for coverage under the plan must be based upon length of service or attained age, or both; and benefits must be determined by a nondiscriminatory formula based upon:

(a) Length of service and compensation, or

(b) Length of service.

(8) The retirement plan shall require participants to contribute toward the cost of the plan an amount which shall not be less than 1 percent of salary, and it must set forth the termination rights, if any, of an employee before retirement.

(9) An actuarial valuation of the retirement plan must be made at least once every 5 years commencing December 31, 1968, and at least every 3 years commencing from the last actuarial report of the plan or system or from October 1, 1986, if no actuarial report has been issued within the 3 years prior to October 1, 1983. Such valuation shall be prepared by an enrolled actuary. Such valuation shall be subject to the following:

(a) The assets shall be valued at cost or market or on such other basis as may be approved by the ~~division Department of Insurance~~.

(b) Minimum actuarial assumptions and methods to be used in valuing the liabilities shall ~~will~~ be provided by the ~~division Department of Insurance~~ and revised from time to time by it. The valuation must be on basis and methods not less conservative than those set forth by the ~~division Department of Insurance~~.

(c) The cost of the actuarial valuation must be paid by each individual firefighters' retirement fund or by the municipality or special fire control district.

(d) A report of the valuation, including actuarial assumptions and type and basis of funding, shall be made to the ~~division Department of Insurance~~ within 3 months after the date of valuation. If any benefits are insured with a commercial insurance company, the report should include a statement of the relationship of the retirement plan benefits to the insured benefits and, in addition, the name of the insurer, basis of premium rates, mortality table, interest rate, and method used in valuing the retirement benefits.

(e) However, if an actuarial valuation has been made subsequent to December 31, 1963, the 5-year period will commence on the date of that valuation.

(10) The municipality or special fire control district shall contribute to the plan annually an amount which, together with the contributions from the firefighters and the amount derived from the premium tax provided in s. 175.101 and other income sources as authorized by law, will be sufficient to meet the normal cost of the plan and to fund the actuarial deficiency over a period of not more than 40 years.

(11) No retirement plan or amendment to a retirement plan shall be proposed ~~unless without~~ the proposed plan or amendment ~~contains containing~~ an actuarial estimate of the costs involved. No such proposed plan change shall be adopted without the approval of the municipality or special fire control district. Copies of the proposed change and the actuarial impact statement of the proposed change shall be furnished to the ~~division Department of Insurance~~ prior to the last public hearing thereon. Such statement shall also indicate whether the proposed change s in compliance with s. 14, Art. X of the State Constitution and those provisions of part VII of chapter 112 which are not expressly provided in this chapter.

(12) Each year, on or before March 15, the trustees of the retirement plan shall submit the following information to the ~~division Department of Insurance~~ in order for the retirement plan of such municipality or special fire control district to receive a share of the state funds for the then-current calendar year; when any of these items would be identical with the corresponding item submitted for a previous year, it is ~~shall~~ not be necessary for the trustees to submit duplicate information if they, ~~but the trustees may~~ make reference to the item in such previous year's report:

(a) A certified copy of each and every instrument constituting or evidencing the plan. This includes the formal plan, including all amendments, the trust agreement, copies of all insurance contracts, and formal announcement material.

(b) An independent audit by a certified public accountant if the fund has \$100,000 or more in assets, or a certified statement of accounting if the fund has less than \$100,000 in assets, for the most recent fiscal year of the municipality or special fire control district, showing a detailed listing of assets and a statement of all income and disbursements during the year. Such income and disbursements must be reconciled with the assets at the beginning and end of the year.

(c) A certified statement listing the investments of the plan and a description of the methods used in valuing the investments.

(d) A statistical exhibit showing the total number of firefighters, the number included in the plan, and the number ineligible classified according to the reasons for their being ineligible.

(e) A certified statement describing the methods, factors, and actuarial assumption used in determining the cost.

(f) A certified statement by an enrolled actuary showing the results of the latest triennial valuation of the plan and a copy of the detailed worksheets showing the computations used in arriving at the results.

(g) A statement of the amount the municipality or special fire control district, or other income source, has contributed toward the plan for the most recent fiscal year and will contribute toward the plan for the current fiscal year.

(13) ~~If When~~ a municipality or special fire control district has a firefighters' retirement fund which, in the opinion of the ~~division Department of Insurance~~, meets the standards set forth in subsections (1) through (12), the board of trustees of the pension fund, as approved by a majority of firefighters of the municipality or special fire control district affected, or the official pension committee, as approved by a majority of firefighters of the municipality or special fire control district affected, may place the income from the premium tax in s. 175.101 in its existing pension fund for the sole and exclusive use of its firefighters (or for firefighters and police officers where included), where it shall become an integral part of that fund, or may use such income to pay extra benefits to the firefighters included in the fund.

(14) The retirement plan setting forth the benefits and the trust agreement, if any, covering the duties and responsibilities of the trustees and the regulations of the investment of funds must be in writing, and copies thereof must be made available to the participants and to the general public.

(15)(a) The membership of boards of trustees for pension plans operated pursuant to this section shall be as follows:

1. ~~If When~~ a municipality or special fire control district has a pension plan for firefighters only, the provisions of s. 175.061 shall apply.

2. ~~If When~~ a municipality has a pension plan for firefighters and police officers, the provisions of s. 175.061 shall apply, except that two

members of the board shall be firefighters or police officers who shall be elected by a majority of the firefighters and police officers who are members of the plan.

3. *If When* a municipality or special fire control district has a pension plan for firefighters and general employees, at least one member of the board shall be a firefighter who shall be elected by a majority of the firefighters who are members of the plan.

4. *If When* a municipality has a pension plan for firefighters, police officers, and general employees, at least one member of the board shall be a firefighter or police officer who shall be elected by a majority of the firefighters and police officers who are members of the plan.

(b) Nothing in this section shall permit the reduction of the membership percentage of firefighters, or firefighters and police officers where a joint or mixed fund exists, on any board of trustees operating a pension plan pursuant to this section on June 30, 1986.

(16) The provisions of this section and s. 175.061 may not be changed by a participating municipality or special fire control district operating a pension plan pursuant to this section.

Section 40. Section 175.361, Florida Statutes, is amended to read:

175.361 Termination of plan and distribution of fund.—Upon termination of the plan by the municipality or special fire control district for any reason, or upon written notice by the municipality or special fire control district to the board of trustees that contributions under the plan ~~thereunder~~ are being permanently discontinued, the fund shall be apportioned and distributed in accordance with the following procedures:

(1) The board of trustees shall determine the date of distribution and the asset value to be distributed, after taking into account the expenses of such distribution.

(2) The board of trustees shall determine the method of distribution of the asset value, that is, whether distribution shall be by payment in cash, by the maintenance of another or substituted trust fund, by the purchase of insured annuities, or otherwise, for each firefighter entitled to benefits under the plan as specified in subsection (3).

(3) The board of trustees shall apportion the asset value as of the date of termination in the manner set forth in this subsection below, on the basis that the amount required to provide any given retirement income shall mean the actuarially computed single-sum value of such retirement income, except that if the method of distribution determined under subsection (2) involves the purchase of an insured annuity, the amount required to provide the given retirement income shall mean the single premium payable for such annuity.

(a) Apportionment shall first be made in respect of each retired firefighter receiving a retirement income hereunder on such date, each person receiving a retirement income on such date on account of a retired (but since deceased) firefighter, and each firefighter who has, by such date, become eligible for normal retirement but has not yet retired, in the amount required to provide such retirement income, provided that, if such asset value is less than the aggregate of such amounts, such amounts shall be proportionately reduced so that the aggregate of such reduced amounts will be equal to such asset value.

(b) If there is any asset value remaining after the apportionment under paragraph (a), apportionment shall next be made in respect of each firefighter in the service of the municipality or special fire control district on such date who has completed at least 10 years of credited service, who has contributed to the ~~municipal~~ firefighters' pension trust fund for at least 10 years, and who is not entitled to an apportionment under paragraph (a), in the amount required to provide the actuarial equivalent of the accrued normal retirement income, based on the firefighter's credited service and earnings to such date, and each former participant then entitled to a benefit under the provisions of s. 175.211 who has not by such date reached his normal retirement date, in the amount required to provide the actuarial equivalent of the accrued normal retirement income to which he is entitled under s. 175.211; provided that, if such remaining asset value is less than the aggregate of the amounts apportioned hereunder, such latter amounts shall be proportionately reduced so that the aggregate of such reduced amounts will be equal to such remaining asset value.

(c) If there is any asset value after the apportionments under paragraphs (a) and (b), apportionment shall lastly be made in respect of each

firefighter in the service of the municipality or special fire control district on such date who is not entitled to an apportionment under paragraphs (a) and (b) in the amount equal to the firefighter's ~~his~~ total contributions to the plan to date of termination; provided that, if such remaining asset value is less than the aggregate of the amounts apportioned hereunder, such latter amounts shall be proportionately reduced so that the aggregate of such reduced amounts will be equal to such remaining asset value.

(d) In the event that there is asset value remaining after the full apportionment specified in paragraphs (a), (b), and (c), such excess shall be returned to the municipality or special fire control district, less return to the state of the state's contributions, provided that, if the excess is less than the total contributions made by the municipality or special fire control district and the state to date of termination of the plan, such excess shall be divided proportionately to the total contributions made by the municipality or special fire control district and the state.

(4) The board of trustees shall distribute, in accordance with the manner of distribution determined under subsection (2), the amounts apportioned under subsection (3).

If, after a period of 24 months after the date on which the plan terminated or the date on which the board received written notice that the contributions thereunder were being permanently discontinued, the municipality or special fire control district or the board of trustees of the ~~municipal~~ firefighters' pension trust fund affected has not complied with all the provisions in this section, the ~~division~~ Department of Insurance shall effect the termination of the fund in accordance with this section.

Section 41. Section 175.401, Florida Statutes, as created by section 1 of chapter 92-51, Laws of Florida, is amended to read:

175.401 Retiree health insurance subsidy.—Under the broad grant of home rule powers under the Florida Constitution and chapter 166, municipalities have the authority to establish and administer locally funded health insurance subsidy programs. *In addition, special fire control districts may, by resolution, establish and administer locally funded health insurance subsidy programs.* Pursuant thereto:

(1) PURPOSE.—The purpose of this section is to allow municipalities and special fire control districts the option to use premium tax moneys, as provided for under this chapter, to establish and administer health insurance subsidy programs which will provide a monthly subsidy payment to retired members of any ~~municipal~~ firefighters' pension trust fund system or plan as provided under this chapter, or to beneficiaries who are spouses or financial dependents entitled to receive benefits under such a plan, in order to assist such retired members or beneficiaries in paying the costs of health insurance.

(2) MUNICIPAL RETIREE HEALTH INSURANCE SUBSIDY TRUST FUNDS; ESTABLISHMENT AND TERMINATION.—

(a) Any municipality or special fire control district having a ~~municipal~~ firefighters' pension trust fund system or plan as provided under this chapter may, in its discretion, establish by ordinance a trust fund to be known as the ~~Municipal~~ firefighters' retiree health insurance subsidy trust fund. This fund may be a separate account established for such purpose in the existing ~~municipal~~ firefighters' pension fund, provided that all funds deposited in such account are segregated from, and not commingled with, pension funds or other public moneys and that the account otherwise conforms to the requirements of subsection (8). The trust fund shall be used to account for all moneys received and disbursed pursuant to this section.

(b) Prior to the second reading of the ordinance before the municipal legislative body, or of the resolution before the governing body of the special fire control district, an actuarial valuation must be performed by an enrolled actuary as provided in s. 112.63, and copies of the valuation and the proposed implementing ordinance shall be furnished to the ~~Department of Insurance, Bureau of Municipal Police Officers' and Firefighters' Retirement Trust Funds, and the Department of Administration, division of Retirement.~~

(c) The subsidy program may, at the discretion of the municipal governing body, be permanently discontinued by municipal ordinance, and at the discretion of the governing body of a special fire control district may be permanently discontinued by resolution, at any time, subject to the requirements of any applicable collective bargaining agreement, in the same manner and subject to the same conditions established for plan termination and fund distribution under s. 175.361.

(3) FUNDING.—Trust funds established pursuant to this section shall be funded in the following manner:

(a) By payment to the fund of an amount equivalent to one-half of the net increase over the previous tax year in the premium tax funds provided for in this chapter, said amount to be established in the implementing ordinance or resolution.

(b) By no less than 1 percent of the base salary of each firefighter, for so long as the firefighter is employed and covered by a pension plan established pursuant to this chapter. The municipality or special fire control district, with approval of the board of trustees, may increase member contributions if needed to fund benefits greater than the minimums established in this section.

(c) By payment by the municipality or special fire control district, on at least a quarterly basis, of whatever sum is determined necessary to maintain the actuarial soundness of the fund in accordance with s. 112.64.

Such contributions and payments shall be submitted to the board of trustees of the firefighters' pension trust fund, or the plan trustees in the case of local plans established under s. 175.351, and deposited in the ~~Municipal~~ firefighters' retiree health insurance subsidy trust fund, in the same manner and subject to the same time constraints as provided under s. 175.131.

(4) ELIGIBILITY FOR RETIREE HEALTH INSURANCE SUBSIDY.—A person who has contributed to the retiree health insurance subsidy trust fund and retires under a ~~municipal~~ firefighters' pension trust fund system or plan as provided under this chapter, including any local plan as provided under s. 175.351, or a beneficiary who is a spouse or financial dependent entitled to receive benefits under such a plan, is eligible for health insurance subsidy payments provided under this section. However, the fund, with approval of the board of trustees and approval of the municipality or special fire control district, may provide coverage to retirees and beneficiaries when the retirees have not contributed to the fund as provided in subsection (3). Payment of the retiree health insurance subsidy shall be made only after coverage for health insurance for the retiree or beneficiary has been certified in writing to the board of trustees of the ~~municipal~~ firefighters' pension trust fund.

(5) RETIREE HEALTH INSURANCE SUBSIDY AMOUNT.—Beginning on the effective date established in the implementing ordinance or resolution, each eligible retiree, or beneficiary who is a spouse or financial dependent thereof, shall receive a monthly retiree health insurance subsidy payment equal to the aggregate number of years of service with the municipality or special fire control district, as defined in s. 175.032(6), completed at the time of retirement multiplied by an amount determined in the implementing ordinance or resolution, but no less than \$3 for each year of service. Nothing herein shall be construed to restrict the plan sponsor from establishing, in the implementing ordinance or resolution, a cap of no less than 30 years upon the number of years' service for which credit will be given toward a health insurance subsidy or a maximum monthly subsidy amount.

(6) PAYMENT OF RETIREE HEALTH INSURANCE SUBSIDY.—Beginning on the effective date established in the implementing ordinance or resolution, any monthly retiree health insurance subsidy amount due and payable under this section shall be paid to retired members, or their eligible beneficiaries, by the board of trustees of the firefighters' pension trust fund, or the plan trustees in the case of local plans established under s. 175.351, in the same manner as provided by s. 175.071(1)(c) for drafts upon the pension fund.

(7) INVESTMENT OF THE TRUST FUND.—The trustees of the firefighters' pension trust fund, or the plan trustees in the case of local plans established under s. 175.351, are hereby authorized to invest and reinvest the funds of the ~~Municipal~~ firefighters' retiree health insurance subsidy trust fund in the same manner and subject to the same conditions as apply hereunder to the investment of ~~municipal~~ firefighters' pension funds under s. 175.071.

(8) DEPOSIT OF HEALTH INSURANCE SUBSIDY FUNDS.—All funds and securities of the health insurance subsidy fund may be deposited by the board of trustees with the treasurer of the municipality or special fire control district, acting in a ministerial capacity only, who shall be liable in the same manner and to the same extent as he is liable for the safekeeping of funds for the municipality or special fire control district. Any funds so deposited shall be segregated by the ~~said~~ treasurer in a separate fund, clearly identified as funds and securities of the health

insurance subsidy fund. In lieu thereof, the board of trustees shall deposit the funds and securities of the health insurance subsidy fund in a qualified public depository as defined in s. 280.02, which shall conform to and be bound by the provisions of chapter 280 with regard to such funds. In no case shall the funds of the health insurance subsidy fund be deposited in any financial institution, brokerage house trust company, or other entity that is not a public depository as provided by s. 280.02.

(9) SEPARATION FROM SERVICE; REFUNDS.—Any firefighter who terminates employment with a municipality or special fire control district having a ~~Municipal~~ retiree health insurance subsidy trust fund system or plan as provided under this section shall be entitled to a refund of all employee contributions he made to ~~that said~~ trust fund, without interest, regardless of whether he has vested for purposes of retirement. Any firefighter who has vested for purposes of retirement in the service of the municipality or special fire control district, and has contributed to the ~~Municipal~~ firefighters' retiree health insurance subsidy trust fund for so long as he was eligible to make such contributions, may, in his discretion, elect to leave his accrued contributions in the fund, whereupon, such firefighter shall, upon retiring and commencing to draw retirement benefits, receive a health insurance subsidy based upon his aggregate number of years of service with the municipality or special fire control district, as defined in s. 175.032(5).

(10) ADMINISTRATION OF SYSTEM; ACTUARIAL VALUATIONS; AUDITS; RULES; ADMINISTRATIVE COSTS.—The board of trustees of the firefighters' pension trust fund, or the plan trustees in the case of local plans established under s. 175.351, shall be solely responsible for administering the health insurance subsidy trust fund. Pursuant thereto:

(a) As part of its administrative duties, no less frequently than every 3 years, the board shall have an actuarial valuation of the ~~Municipal~~ firefighters' retiree health insurance subsidy trust fund prepared as provided in s. 112.63 by an enrolled actuary, covering the same reporting period or plan year used for the ~~municipal~~ firefighters' pension plan, and shall submit a report of the valuation, including actuarial assumptions and type and basis of funding, to the ~~Department of Insurance, Bureau of Municipal Police Officers' and Firefighters' Retirement Trust Funds, and the Department of Administration, division of Retirement.~~

(b) By February 1 of each year, the trustees shall file a report with the ~~division Department of Insurance,~~ containing an independent audit by a certified public accountant if the fund has \$100,000 or more in assets, or a certified statement of accounting if the fund has less than \$100,000 in assets, for the most recent fiscal year of the municipality or special fire control district, showing a detailed listing of assets and methods used to value them and a statement of all income and disbursements during the year. Such income and disbursements shall be reconciled with the assets at the beginning of and end of the year.

(c) The trustees may adopt such rules and regulations as are necessary for the effective and efficient administration of this section.

(d) At the discretion of the plan sponsor, the cost of administration may be appropriated from the trust fund or paid directly by the plan sponsor.

(11) BENEFITS.—Subsidy payments shall be payable under the ~~municipal~~ firefighters' retiree health insurance subsidy program only to participants in the program or their beneficiaries. Such subsidy payments shall not be subject to assignment, execution, or attachment or to any legal process whatsoever, and shall be in addition to any other benefits to which eligible recipients are entitled under any workers' compensation law, pension law, collective bargaining agreement, municipal or county ordinance, or any other state or federal statute.

(12) DISTRIBUTION OF PREMIUM TAXES; COMPLIANCE REQUIRED.—Premium tax dollars for which spending authority is granted under this section shall be distributed from the ~~Florida Protection of Public Employee Retirement Benefits Insurance Commissioner's Regulatory Trust Fund~~ and remitted annually to municipalities and special fire control districts in the same manner as provided under this chapter for firefighters' pension funds. Once a health insurance subsidy plan has been implemented by a municipality or special fire control district under this section, in order for the municipality or special fire control district to participate in the distribution of premium tax dollars authorized under this section, all provisions of this section shall be complied with, and said premium tax dollars may be withheld for noncompliance, as determined by the division.

Section 42. Section 185.02, Florida Statutes, is amended to read:

185.02 Definitions.—The following words and phrases as used in this chapter shall have the following meanings, unless a different meaning is plainly required by the context:

(1)(a)(5) In determining the "aggregate number of years of service" of any police officer, the time spent in the military service of the United States or United States Merchant Marine by the police officer on leave of absence for such reason shall be added to the years of service, provided, however, that to receive credit for such service the police officer must have reentered the municipality's police service within 1 year of date of release from service.

(b)(6) Otherwise, "aggregate number of years of service with the municipality" means the total number of years, and fractional parts of years, of service of any police officer, omitting intervening years and fractional parts of years, when such police officer may not be employed by the municipality. Provided, however, that no police officer will receive credit for years or fractional parts of years of service for which he has withdrawn his contributions to the fund for those years or fractional parts of years of service; and provided further that no credit will be given for service after the normal retirement date. Further providing that a police officer may voluntarily leave his contributions in the fund for a period of 5 years after leaving the employ of the police department, pending the possibility of his being rehired by the same department, without losing credit for the time he has participated actively as a police officer. Should he not be reemployed as a police officer, with the same department, within 5 years, his contributions shall be returned to him without interest.

(2) "Average final compensation" means one-twelfth of the average annual compensation of the 5 best years of the last 10 years of creditable service prior to retirement, termination, or death.

(3)(4)(a) "Casualty insurance" means automobile public liability and property damage insurance to be applied at the place of residence of the owner, or if the subject is a commercial vehicle, to be applied at the place of business of the owner; automobile collision insurance; fidelity bonds; burglary and theft insurance; plate glass insurance.

(4) "Division" means:

(a) Before the merger of the Department of Administration and the Department of General Services, the Division of Retirement of the Department of Administration.

(b) After the merger of the Department of Administration and the Department of General Services, the Division of Retirement of the Department of Management Services.

(5)(7) "Enrolled actuary" means an actuary who is enrolled under Subtitle C of Title III of the Employee Retirement Income Security Act of 1974 and who is a member of the Society of Actuaries or the American Academy of Actuaries.

(6)(b) "Multiple peril" means a combination or package policy which includes both property coverage and casualty coverage for a single premium.

(7)(4) "Police officer" means any person who is elected, appointed, or employed full time by any municipality, who is certified or required to be certified as a law enforcement officer in compliance with s. 943.1395, who is vested with authority to bear arms and make arrests, and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. This definition includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers, but does not include part-time law enforcement officers or auxiliary law enforcement officers as the same are defined in s. 943.10(6) and (8), respectively. For the purposes of this chapter only, "police officer" also shall include a public safety officer who is responsible for performing both police and fire services.

(8)(3) "Salary" means the total cash remuneration paid to a police officer for services rendered.

Section 43. Subsection (1) of section 185.05, Florida Statutes, is amended to read:

185.05 Board of trustees; members, terms of office.—

(1) In each municipality described in s. 185.03 there is hereby created a board of trustees of the municipal police officers' retirement trust fund, which shall be solely responsible for administering the trust fund. Effective October 1, 1986, and thereafter, the board of trustees shall consist of five members, two of whom, unless otherwise prohibited by law, shall be legal residents of the municipality, who shall be appointed by the legislative body of the municipality, and two of whom shall be police officers as defined in s. 185.02(4) who shall be elected by a majority of the police officers who are members of such plan. The fifth member shall be chosen by a majority of the previous four members, and such person's name shall be submitted to the legislative body of the municipality. Upon receipt of the fifth person's name, the legislative body of the municipality shall, as a ministerial duty, appoint such person to the board of trustees as its fifth member. The fifth member shall have the same rights as each of the other four members appointed or elected as herein provided and may succeed himself in office. Each resident member shall serve as trustee for a period of 2 years, unless sooner replaced by the legislative body at whose pleasure he shall serve, and may succeed himself as a trustee. However, the terms of the mayor, or corresponding chief executive officer of the municipality, and the chief of the police department as members of the board of trustees as provided in chapter 28230, Laws of Florida, 1953, as amended, together with any city manager and member of the legislative body of the municipality as members of the board of trustees shall terminate on September 30, 1986. Each police officer member shall serve as trustee for a period of 2 years, unless he sooner leaves the employment of the municipality as a police officer, whereupon the legislative body of the municipality shall choose his successor in the same manner as an original appointment. Each police officer may succeed himself in office. The board of trustees shall meet at least quarterly each year. Each board of trustees shall be a legal entity with, in addition to other powers and responsibilities contained herein, the power to bring and defend lawsuits of every kind, nature, and description.

Section 44. Section 185.09, Florida Statutes, is amended to read:

185.09 Report of premiums paid; date tax payable.—Whenever any ~~municipality passes city or town shall pass~~ an ordinance assessing and imposing the tax authorized in s. 185.08, a certified copy of such ordinance shall be deposited with ~~both the division; Department of Banking and Finance and the Department of Insurance~~ and thereafter every insurance company, corporation, or other insurer carrying on the business of casualty insuring, on or before the succeeding March 1 after date of the passage of the ~~said ordinance~~, shall report fully in writing to the ~~division~~ ~~Department of Banking and Finance~~ and the Department of Revenue ~~Insurance~~, a just and true account of all premiums received by such insurer for casualty insurance policies covering or insuring any property located within the corporate limits of such municipality during the period of time elapsing between the date of the passage of the ~~said ordinance~~ and the succeeding March 1. The aforesaid insurer shall annually thereafter, on March 1, file with the ~~division and the Department of Revenue~~ ~~same officers~~, a similar report covering the preceding year's premium receipts. Every such insurer shall, at the time of making such report, pay to the ~~division and the Department of Revenue~~ ~~insurance commissioner and treasurer~~ the amount of the tax heretofore mentioned. Every insurer engaged in carrying on a general casualty insurance business in the state, ~~as shown by the records of the Department of Insurance~~, shall keep accurate books of account of all such business done by it within the limits of such incorporated municipality in such a manner as to be able to comply with the provisions of this chapter. ~~Based on the insurers' reports of premium receipts, the division shall prepare a consolidated premium report and The Department of Insurance shall furnish to any municipality requesting the same a copy of the relevant section of that report any of the reports filed by insurers under this section.~~

Section 45. Section 185.10, Florida Statutes, is amended to read:

185.10 Department of Revenue and Division of Retirement ~~Insurance Commissioner and Treasurer~~ to keep accounts of deposits; disbursements; investments by State Board of Administration.—

(1) The Department of Revenue ~~Insurance Commissioner and Treasurer~~ shall keep a separate account of all moneys collected for each municipality under the provisions of this chapter. ~~Any and All moneys so collected, after deducting the necessary expense incurred by the Department of Revenue Insurance in carrying out the provisions of this chapter, shall be paid into the Florida Protection of Public Employee Retirement Benefits State Treasury in the Insurance Commissioner's Regulatory Trust Fund and shall be separately accounted for by the division. The moneys budgeted as necessary to pay the expenses of the~~

division for the daily oversight and monitoring of the police officers' retirement plans, and for the receipt, holding, and disbursement of premium tax moneys collected under this chapter, are annually appropriated to the division from the interest and investment earnings on the trust fund; and the moneys budgeted as necessary to pay the expenses of the State Board of Administration for investment of premium tax moneys collected under this chapter are annually appropriated to the state board from the interest and investment earnings on the trust fund. Any interest or investment earnings on the trust fund not appropriated to carry out the duties described in this subsection shall be transferred to the General Revenue Fund.

(2) The Comptroller shall, on or before June 1 of each year, and at such other times as the ~~division~~ ~~Treasurer~~ may elect, draw his warrants ~~warrant on the Treasurer for the full net amount of money then on deposit pursuant to this chapter within the State Treasury in the Insurance Commissioner's Regulatory Trust Fund~~, specifying the municipalities to which the moneys ~~must~~ shall be paid and the net amount collected for and to be paid to each municipality, respectively. The ~~sum~~ ~~sums~~ payable to each municipality is ~~such municipalities are hereby appropriated annually out of the Florida Protection of Public Employee Retirement Benefits Insurance Commissioner's Regulatory Trust Fund~~. The warrants of the Comptroller shall be payable to the ~~respective municipalities, respectively~~, entitled to receive them and shall be remitted annually by the ~~division~~ ~~Department of Insurance to the respective such municipalities~~. In order for a municipality and its retirement fund to participate in the distribution of premium tax moneys under this chapter, all the provisions of the chapter ~~must~~ shall be complied with annually, as determined by the division.

Section 46. Section 185.221, Florida Statutes, is amended to read:

185.221 *Annual report to Division of Retirement; actuarial reports* ~~Department of Insurance.~~—

(1) Each year by February 1, the chairman or secretary of each municipal police officers' retirement trust fund shall file a report with the ~~division which contains the Department of Insurance containing the following:~~

(a) A statement of whether in fact the municipality is within the provisions of s. 185.03.

(b) An independent audit by a certified public accountant if the fund has \$100,000 or more in assets, or a certified statement of accounting if the fund has less than \$100,000 in assets, for the most recent fiscal year of the municipality, showing a detailed listing of assets and methods used to value them and a statement of all income and disbursements during the year. Such income and disbursements shall be reconciled with the assets at the beginning and end of the year.

(c) A statistical exhibit showing the total number of police officers on the force of the municipality, the number included in the retirement plan and the number ineligible classified according to the reasons for their being ineligible, and the number of disabled and retired police officers and their beneficiaries receiving pension payments and the amounts of annual retirement income or pension payments being received by them.

(d) A statement of the amount the municipality has contributed to the retirement plan for the year ending with the preceding December 31 and the amount the municipality will contribute to the retirement plan for the current calendar year.

(e) If any benefits are insured with a commercial insurance company, the report shall include a statement of the relationship of the insured benefits to the benefits provided by this chapter. This report shall also contain information about the insurer, basis of premium rates and mortality table, interest rate and method used in valuing retirement benefits.

(2) By February 1 of each triennial year beginning with February 1, 1986, and at least every 3 years commencing from the last actuarial report of the plan or system or from February 1, 1987, if no actuarial report has been issued within the 3-year period prior to February 1, 1986, the chairman of each municipal police officers' retirement trust fund shall report to the ~~division~~ ~~Department of Insurance~~ such data that the ~~division~~ ~~department~~ needs to complete an actuarial valuation of each fund. The forms for each municipality shall be supplied by the ~~division~~ ~~department~~. The expense of the actuarial valuation shall be borne by the municipal police officers' retirement trust fund established by ss. 185.10 and 185.24.

Section 47. Section 185.23, Florida Statutes, is amended to read:

185.23 *Duties of Division of Retirement and State Board of Administration; rulemaking authority* ~~Rules and regulations.~~—

(1) *The Division of Retirement shall be responsible for the daily oversight and monitoring for actuarial soundness of the municipal police officers' retirement plans established under this chapter; for receiving and holding the premium tax moneys collected under this chapter; and for disbursing those moneys to the municipal police officers' retirement plans.*

(2) *The division* ~~Department of Insurance shall adopt make such rules pertaining to the operation and regulations as are necessary for the effective administration of this chapter.~~

(3) *The State Board of Administration shall invest and reinvest the moneys in the trust fund in accordance with ss. 215.44-215.53.*

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, line 2 through page 3, line 15, strike all of said lines and insert: An act relating to public pension or retirement benefits and subsidies; amending s. 20.13, F.S., relating to the structure of the Department of Insurance, to delete duties of the Division of Benefits that are assigned or eliminated by this act; amending s. 112.363, F.S.; increasing the retiree health insurance subsidy rate; increasing the employer contribution rate to fund the increased subsidy; creating s. 112.666, F.S.; creating the Florida Protection of Public Employee Retirement Benefits Trust Fund; providing for assessment of local retirement systems or plans to pay the costs of administering the Florida Protection of Public Employee Retirement Benefits Act; providing legislative intent with respect to governmental retirement systems; amending s. 121.021, F.S.; conforming the definition of the term "covered group" as used with respect to the Florida Retirement System to a change in terminology made by this act; amending ss. 121.052, 121.055, 121.071, 121.40, F.S.; revising contribution rates applicable to members of the Elected State and County Officers' Class, the Senior Management Service Class, and the Regular, Special Risk, and Special Risk Administrative Support Classes of the Florida Retirement System and the contribution rate applicable to the supplemental retirement plan for the Institute of Food and Agricultural Sciences of the University of Florida; amending s. 121.091, F.S., revising death benefit provisions under the Florida Retirement System; providing for reinstatement of benefit to a surviving spouse whose benefit terminated because of remarriage; providing for retrospective application; amending ss. 122.08, 122.35, F.S.; advancing the effective date for provisions that provide for retirement after 30 years of service for members of the State and County Officers and Employees' Retirement System; amending ss. 175.021, 175.032, 175.041, 175.061, 175.071, 175.081, 175.091, 175.101, 175.111, 175.121, 175.122, 175.131, 175.141, 175.152, 175.162, 175.191, 175.201, 175.211, 175.251, 175.261, 175.291, 175.301, 175.311, 175.321, 175.341, 175.351, 175.361, 175.401, 185.02, 185.05, 185.09, 185.10, 185.221, 185.23, 185.35, 185.37, 185.50, F.S., relating to municipal firefighters' and police officers' pension or retirement plans and retiree health insurance subsidies; transferring powers, duties, and functions of the Department of Insurance respecting those plans and subsidies to the Department of Administration and assigning these and other duties respecting those plans and subsidies to the Division of Retirement; providing for inclusion of matters assigned to the Division of Retirement in the transfer of the division to the Department of Management Services at a subsequent time; providing for transfer of related records, personnel, property, and funds; providing for continuation of certain existing rules of the Department of Insurance as rules of the division; abolishing the Bureau of Municipal Police Officers' and Firefighters' Pension Funds of the Division of Benefits of the Department of Insurance; eliminating certain reports to the Department of Banking and Finance; specifying certain duties of the Department of Revenue; providing for disposition of premium tax moneys collected under chs. 175 and 185, F.S.; providing for annual appropriation of such moneys; providing for investment of such moneys by the State Board of Administration; providing for payment of certain administrative expenses of the Division of Retirement and the State Board of Administration; providing for transfer of certain moneys to the General Revenue Fund;

Senator Gardner moved the following amendment:

Amendment 2 (with Title Amendment)—On page 11, line 20 through page 16, line 24, strike all of said lines and insert:

Section 7. Paragraphs (b) and (f) of subsection (1), subsection (2), and paragraphs (a) and (c) of subsection (3) of section 121.055, Florida Statutes, as amended by section 56 of chapter 92-279, Laws of Florida, are amended, and subsection (7) is added to that section, to read:

121.055 Senior Management Service Class.—There is hereby established a separate class of membership within the Florida Retirement System to be known as the "Senior Management Service Class," which shall become effective February 1, 1987.

(1)

(b) 1. Except as otherwise provided in subparagraph 2., effective January 1, 1990, participation in the Senior Management Service Class shall be compulsory for the president of each community college, the manager of each participating city or county, and all appointed district school superintendents. Effective January 1, 1993, additional positions may be designated by a board of trustees of a community college district for inclusion in the Senior Management Service Class of the Florida Retirement System, as follows:

a. Notice of intent to designate positions for inclusion in the class must be published once a week for 2 consecutive weeks in a newspaper of general circulation published in the county or counties affected, as provided in chapter 50.

b. One nonelective, full-time position may be designated for each community college reporting to the Division of Retirement; for a community college having 200 or more regularly established positions, additional nonelective, full-time positions may be designated, not exceeding 0.5 percent of the regularly established positions within the community college.

c. Each position added to the class must be a managerial or policy-making position that is filled by an employee who is not subject to continuing contract and serves at the pleasure of the employer without civil service protection and who heads an organizational unit or has responsibility to effect or recommend personnel, budgetary, expenditure, or policy decisions in his areas of responsibility.

2. However, in lieu of participation in the Senior Management Service Class, each member of the Senior Management Service Class under subparagraph 1. may withdraw from the Florida Retirement System altogether and participate in a lifetime monthly annuity program which may be provided by the employing agency. The cost to the employer for such annuity shall equal the normal cost portion of the contributions required in the Senior Management Service Class. The employer providing such annuity shall contribute an additional amount to the Florida Retirement System Trust Fund equal to the unfunded actuarial accrued liability portion of the Senior Management Service Class contribution rate. The decision to participate in such local government annuity shall be irrevocable for as long as the employee holds a position eligible for the annuity. Any service creditable under the Senior Management Service Class shall be retained after the member withdraws from the Florida Retirement System; however, additional service credit in the Senior Management Service Class shall not be earned after such withdrawal. Such members shall not be eligible to participate in the Senior Management Service Optional Annuity Program.

(f) Except as may otherwise be provided, any member of the Senior Management Service Class may purchase additional retirement credit in such class for creditable service within the purview of the Senior Management Service Class retroactive to February 1, 1987, and may upgrade retirement credit for such past service, to the extent of 2 percent of the member's average monthly compensation as specified in paragraph (4)(d) for such service. Contributions for upgrading the additional Senior Management Service credit pursuant to this paragraph shall be equal to the difference in the contributions paid and the Senior Management Service Class contribution rate as a percentage of gross salary in effect for the period being claimed, plus interest thereon at the rate of 6.5 percent a year, compounded annually until the date of payment. This past service credit may be purchased by the employer on behalf of the member.

(2) Participation in this class shall cease when the member terminates employment in an eligible position. Once a position is designated as eligible for inclusion in this class, that position may not be removed from the class unless the duties and responsibilities of the position change so substantially that the position no longer meets the requirements provided in this section for participation in the class.

(3)(a) The following table states the required retirement contribution rates for members of the Senior Management Service Class and their employers in terms of a percentage percentages of the member's members' gross compensation. A change Changes in the contribution rate is rates are effective with the first salary paid on or after the beginning date of the a change. Contributions shall be made for each pay period and are shall be in addition to the contributions required for social security and the Retiree Health Insurance Subsidy Trust Fund.

Dates of Contribution
Rate Changes

Members Employers

February 1, 1987, through December 31, 1988	0%	13.88%
January 1, 1989, through December 31, 1989	0%	14.95%
January 1, 1990, through December 31, 1990	0%	16.04%
January 1, 1991, through December 31, 1991	0%	18.39%
January 1, 1992, through JulyDecember 31, 1992	0%	19.48%
August 1, 1992, through December 31, 1992	0%	20.95%
Effective January 1, 1993	0%	22.60%
		20.55%

(c) The following table states the required employer contribution on behalf of each member of the Senior Management Service Class in terms of a percentage of the member's gross compensation. Such contribution constitutes the entire health insurance subsidy contribution with respect to the member. A change in the contribution rate is effective with the first salary paid on or after the beginning date of the change. The retiree health insurance subsidy contribution rate is as follows:

Dates of Contribution
Rate Changes

Contribution
Rate

October 1, 1987, through December 31, 1988	0.24%
January 1, 1989, through December 31, 1992	0.48%
Effective January 1, 1993	0.52%

1. Effective October 1, 1987, each employer shall contribute on behalf of each member in the Senior Management Service Class an amount equal to .24 percent of the member's gross salary, which shall constitute the entire health insurance subsidy contribution with respect to such member.

2. Effective January 1, 1989, each employer shall contribute an amount equal to .48 percent of each member's gross salary, which shall constitute the entire health insurance subsidy contribution with respect to such member.

Such contributions shall be deposited by the administrator in the Retiree Health Insurance Subsidy Trust Fund.

(7) On and after January 1, 1993, if the employment of a member of the Senior Management Service Class is terminated subsequent to the completion by the member of 20 years of creditable service, the monthly benefits payable to the member shall be calculated in accordance with s. 121.091(1), but based on average monthly compensation and creditable service as of the date of termination. The benefit so computed shall be reduced by five-twelfths of 1 percent for each complete month by which termination precedes the normal retirement date or the date on which the member would have attained 30 years of creditable service had his employment not been terminated and he had continued his employment, whichever computation provides a greater benefit.

Section 8. Subsection (4) of section 121.071, Florida Statutes, as amended by section 57 of chapter 92-279, Laws of Florida, is amended to read:

121.071 Contributions.—Contributions to the system shall be made as follows:

And the title is amended as follows:

In title, on page 2, line 2, after "Florida," insert: authorizing boards of trustees of community college districts to designate a limited number of certain positions for inclusion in the Senior Management Service Class of the Florida Retirement System; providing for publication of notice of intent to designate such positions; providing that, once a position is designated for inclusion in the Senior Management Service Class, it may not be removed from that class except under specified circumstances; providing for the calculation of the monthly benefit of a member of that class whose employment was terminated after the member had completed 20 years of creditable service;

On motion by Senator Childers, further consideration of **CS for SB 102-H** with pending **Amendment 2** was deferred.

CS for SB 132-H—A bill to be entitled An act relating to education; amending s. 228.041, F.S.; revising terminology in definitions of the terms "school day" and "exceptional student" and defining the term "year-round school"; amending s. 228.053, F.S.; conforming a cross-reference to changes made by the act; amending s. 228.195, F.S.; providing for school breakfast programs for prekindergarten students; amending s. 229.555, F.S.; requiring school improvement plans to meet certain planning and budgeting requirements; amending s. 229.58, F.S.; revising provisions for establishing school advisory councils; defining the term "education support employee"; amending s. 229.591, F.S.; adding the arts to the state education goals; amending s. 229.592, F.S.; conforming cross-references to changes made by the act; amending s. 229.808, F.S.; providing for biennial nonpublic school surveys; amending s. 229.8341, F.S.; revising terminology relating to services for infants and preschool children; amending s. 230.23, F.S.; revising provisions relating to district school board powers and duties for provision of special instruction and services for exceptional students; amending and renumbering s. 235.439, F.S.; revising provisions relating to program monitoring and evaluation of full school utilization programs; amending s. 230.2303, F.S.; revising terminology relating to the Florida First Start Program; amending s. 230.2305, F.S., relating to pre-kindergarten early intervention program plan approval; revising terminology; revising requirements for plans and plan approval; requiring certain guidelines; amending s. 230.2316, F.S.; revising provisions relating to dropout prevention programs and program plans; deleting provisions relating to dropout retrieval assistance programs, a dropout prevention manual, community-based dropout prevention program grants, grants for mini-schools as educational alternatives, and grants for alternatives to out-of-school suspension; amending s. 230.2318, F.S.; conforming provisions to changes made by the act; amending s. 230.33, F.S.; revising provisions relating to planned school programs with respect to duties of the superintendent; providing for extension of a suspension if additional time is required by the school board to provide for a fair hearing; providing conditions to be met prior to the extension of a suspension; amending s. 239.117, F.S.; providing for certain fee waivers; limiting the addition of extra full-time-equivalent calculations to certain community college students; providing that calculation of state funding for lifelong-learning programs be based on expenditures rather than costs; revising the assessment of certain fees for community college students; amending s. 231.15, F.S.; revising provisions relating to fees for certification; amending s. 231.17, F.S.; revising provisions relating to issuance of certificates, application procedures, the professional orientation program, and application of rules; requiring the state board to adopt rules under which applicants who have failed certain test requirements may be awarded a teaching certificate; amending s. 231.1711, F.S.; revising provisions relating to the statement of eligibility for certification; amending s. 231.173, F.S.; providing for qualification for certification of out-of-state administrators; amending s. 231.24, F.S.; revising provisions relating to certificate renewal; creating s. 231.263, F.S.; creating a recovery network program for educators who are impaired as a result of alcohol abuse, drug abuse, or a mental condition; providing an implementation date; providing eligibility for participation; providing for staff; providing for treatment contracts; providing procedures; providing an exemption from public records requirements for certain disclosed information and providing for review and repeal of the exemption; providing for determination of ineligibility for further assistance; providing for funds to implement this act; providing for rules; providing for review and repeal; amending s. 231.603, F.S.; revising provisions relating to teacher education center inservice plans; amending s. 231.606, F.S.; revising teacher education center council duties; amending s. 231.609, F.S.; deleting college and university funding for teacher education centers; amending s. 231.613, F.S.; revising provisions relating to inservice training institutes; deleting requirements for plan approval; amending s. 231.62, F.S.; conforming a cross-reference to changes made by the act; creating s. 231.66, F.S.; providing for tuition-free courses for instructional personnel and teacher aides; amending s. 232.01, F.S., relating to school attendance; revising terminology; amending s. 232.032, F.S.; providing for automated transfer of immunization certification; amending s. 232.246, F.S.; revising provisions relating to funding for special instruction for certain high school students; amending s. 232.2462, F.S.; revising provisions relating to attendance requirements for receipt of credit; creating s. 232.259, F.S.; authorizing rules to assist schools and school districts in implementing driver's license requirements; amending s. 233.056, F.S.; revising terminology relating to certain instructional programs; amending s. 233.07, F.S.; revising definition of the term "instructional materials"; amending s. 233.16, F.S.; authorizing

cash deposits in lieu of bonds for instructional materials contracts; amending s. 233.18, F.S.; revising provisions relating to copies of bids, contracts, and books; amending s. 233.25, F.S.; revising provisions relating to publishers and manufacturers of instructional materials; amending s. 234.01, F.S.; authorizing the provision of certain transportation; amending s. 234.02, F.S.; revising terminology relating to transportation of certain students; including participants in teenage parent programs in student transportation requirements; amending s. 234.041, F.S.; revising terminology relating to transportation of certain students; amending s. 235.014, F.S., and repealing subsection (3), relating to off-site hazards; revising provisions relating to functions of the Office of Educational Facilities; providing Department of General Services' duties; amending s. 235.19, F.S.; providing for waiver of site standards; providing for request relating to off-site hazards; amending s. 235.196, F.S.; revising conditions with respect to requests for funds to construct a community educational facility; requiring the Office of Educational Facilities through an independent appraiser to determine the value of sites for purposes of developing community education facilities; amending s. 235.211, F.S.; providing exceptions from requirements for architect services in certain educational facility plans; amending s. 235.26, F.S.; revising provisions relating to conformance to the state uniform building code; amending s. 235.31, F.S.; providing for purchase of maintenance, repair, and site improvement services by district school boards from other governmental contracts; amending s. 236.013, F.S., relating to definitions, revising requirements for summer school programs; amending s. 236.081, F.S.; revising provisions relating to a program membership survey of schools and year-round schools; limiting the required local effort under the Florida Education Finance Program; amending s. 236.0815, F.S.; revising provisions relating to funding of additional educational services to certain high school students; amending s. 236.083, F.S.; providing for funding for transportation to year-round schools; amending s. 236.0835, F.S.; revising terminology; amending s. 236.13, F.S.; conforming a cross-reference to changes made by the act; amending s. 236.145, F.S., relating to residential nonpublic school contract reimbursement; revising terminology; amending s. 237.041, F.S.; revising provisions relating to the examination of annual budgets; amending s. 237.081, F.S.; revising provisions relating to submission of budgets; amending s. 240.405, F.S.; revising provisions relating to grants for teachers for training in exceptional student education; amending s. 242.332, F.S.; revising terminology; amending ss. 200.065, 236.25, 237.161, F.S.; permitting the purchase of instructional materials and equipment, including software; amending s. 318.21, F.S.; providing for funding crossing guard training programs from civil penalties for certain traffic infractions; authorizing community college boards of trustees to grant certain fee waivers; authorizing the Department of Education to purchase annuities to be used as reduction-in-force bonuses for eligible employees; amending s. 236.013, F.S.; exempting certain students from the maximum full-time equivalent limitation; amending s. 240.118, F.S.; revising the procedures for providing postsecondary feedback reports; repealing ss. 229.565(5), 231.532, 233.0615, 236.022, 236.1227, 236.135, F.S., relating to evaluation of prekindergarten early intervention programs, district quality instruction incentives programs, law education, study of alternative methods of school finance, quality instruction incentive categorical program, and equipment purchasing or leasing; providing an effective date.

—was read the second time by title.

Senator Johnson moved the following amendment which was adopted:

Amendment 1—On page 107, line 5, strike "(6)" and insert: (16)

Senator Myers moved the following amendment which was adopted:

Amendment 2 (with Title Amendment)—On page 152, between lines 2 and 3, insert:

Section 72. The Department of Education shall conduct or have conducted a study of methods of fully equalizing Florida public school funding. The study shall take into consideration the issues of taxpayer equity, uniform property assessment, required local effort, and equal educational opportunity within the context of the Florida Education Finance Program. The department shall make recommendations to the Legislature no later than January 1, 1993, as to how such equalization may be accomplished. Because of the potential high costs of some aspects of equalization, study recommendations may provide for a multi-year phase-in of no more than five years.

And the title is amended as follows:

In title, on page 7, line 15, after the semicolon (;) insert: providing for a study of equalization in public school funding;

Senator McKay moved the following amendments which failed:

Amendment 3 (with Title Amendment)—On page 152, between lines 2 and 3, insert:

Section 72. (1) The Legislature finds that it is in the best interest of the students and their parents and the teachers in Florida's public school system that a thorough and intensive review of the role and functions of the Department of Education be performed, with a determination made as to whether local control of the public school system would be more efficient than the present method of control and would produce better results with less waste of taxpayers' money.

(2) A 12-member review panel shall be appointed as follows:

(a) Four members of the education community, one each appointed by the President of the Senate, the Speaker of the House of Representatives, the Minority Leader of the Senate, and the Minority Leader of the House of Representatives.

(b) Four members of the business community, one each appointed by the President of the Senate, the Speaker of the House of Representatives, the Minority Leader of the Senate, and the Minority Leader of the House of Representatives.

(c) Two members of the Senate, one each appointed by the President of the Senate and the Minority Leader of the Senate.

(d) Two members of the House of Representatives, one each appointed by the Speaker of the House of Representatives and the Minority Leader of the House of Representatives.

(3) All sections of Florida Statutes applicable to the operation, functions, and duties of the Department of Education shall be reviewed by the panel with recommendations submitted to the President of the Senate, the Speaker of the House of Representatives, and the minority leaders of the Senate and the House of Representatives prior to November 1, 1993. The review shall include identification and consideration of the relationship between each statute section and other statutory requirements and the impact of a repeal of each section applicable to the operation, functions, and duties of the department.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 7, line 15, after the semicolon (;) insert: providing findings; providing for appointment of a review panel; requiring a review and recommendations relating to the operation, functions, and duties of the Department of Education;

Amendment 4 (with Title Amendment)—On page 152, line 6, insert:

Section 72. By January 1 of each year, each school district shall report the following information to the Auditor General:

(1) The aggregate sick leave liability of the district.

(2) The amount budgeted to be spent during the next fiscal year to purchase unused sick leave.

(3) A projection of the amount of sick leave to be purchased during the next 10 years.

(4) The amount set aside that year by the district to fund sick leave repurchases.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 7, line 23, following the semicolon (;) insert: providing for annual reports to the Auditor General by school districts with respect to their employees' sick leave;

Senator Johnson moved the following amendment which was adopted:

Amendment 5—On page 65, line 5, strike "a daytime" and insert: *an*

On motion by Senator Johnson, by two-thirds vote **CS for SB 132-H** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—36 Nays—None

SB 226-H—A bill to be entitled An act relating to public accountancy; amending s. 20.30, F.S.; creating a Division of Certified Public Accounting within the Department of Professional Regulation and transferring the Board of Accountancy to that division; amending s. 473.302, F.S.; defining the term "division," for purposes of regulation of public accountancy; creating s. 473.3035, F.S.; providing duties of the Division of Certified Public Accounting; amending s. 473.304, F.S.; prescribing additional duties of the Board of Accountancy; creating s. 473.3045, F.S.; prescribing powers of the board with respect to adoption of bylaws and rules; providing effective dates.

—was read the second time by title.

Senator Yancey offered the following amendment which was moved by Senator Forman and adopted:

Amendment 1 (with Title Amendment)—On page 1, line 20, strike everything after the enacting clause and insert:

Section 1. Section 20.30, Florida Statutes, as amended by section 35 of chapter 92-58, Laws of Florida, and sections 1, 72, and 159 of chapter 92-149, Laws of Florida, is amended to read:

20.30 Department of Professional Regulation.—There is created a Department of Professional Regulation.

(1) The head of the Department of Professional Regulation is the Secretary of Professional Regulation. The secretary shall be appointed by the Governor subject to confirmation by the Senate. The secretary shall serve at the pleasure of the Governor.

(2) The following divisions of the Department of Professional Regulation are established:

(a) Division of Technology, Testing and Training.

(b) Division of Professions.

(c) Division of Medical Quality Assurance.

1. The director of the division shall be appointed by the Secretary of Professional Regulation.

2. The division shall concentrate sufficient resources and efforts on the investigation and discipline of health care practitioners regulated by the department who are in violation of the unprofessional conduct provisions of the applicable practice acts and other provisions of law, as are necessary to meet the challenge of identifying those health care practitioners who are not providing adequate medical care in order to take forceful corrective measures to assure quality medical care throughout the state.

3. The division shall coordinate closely with the Office of Health Planning and Regulation in the Department of Health and Rehabilitative Services to ensure that the state's regulation of health care facilities and the health care practitioners who practice therein is consistent and offers adequate protection to the public.

4. The division shall establish and maintain a disciplinary training program for division staff and board members designed to ensure the proper and appropriate administration of medical quality assurance. The program shall provide for initial and periodic training in the grounds for disciplinary action, the actions which may be taken, changes in any relevant law, sanctions which are most appropriate for specified types of unprofessional conduct, guidelines for the conduct of hearings, and any other matters which the division shall determine may be necessary or useful.

(d) Division of Real Estate.

1. The director of the division shall be appointed by the Secretary of Professional Regulation, subject to approval by a majority of the Florida Real Estate Commission.

2. The offices of the Division of Real Estate shall be located in Orlando.

(e) Division of Regulation.

(f) Division of Administration.

(g) *Division of Certified Public Accounting.*

1. *The director of the division shall be appointed by the Secretary of Professional Regulation, subject to approval by a majority of the Board of Accountancy.*

2. *The offices of the division shall be located in Gainesville.*

(3) There shall be a director for each division established within this section. Each division director shall directly administer the division and shall be responsible to the secretary of the department. The secretary of the department may appoint assistant secretaries as necessary to fulfill the secretary's statutory obligations.

(4) The following boards are established within the Department of Professional Regulation, Division of Professions:

~~(a) Board of Accountancy, created under chapter 473.~~

~~(a)(b)~~ Board of Architecture and Interior Design, created under part I of chapter 481.

~~(b)(e)~~ Board of Auctioneers, created under part VI of chapter 468.

~~(c)(d)~~ Barbers' Board, created under chapter 476.

~~(d)(e)~~ Construction Industry Licensing Board, created under part I of chapter 489.

~~(e)(f)~~ Board of Cosmetology, created under chapter 477.

~~(f)(g)~~ Electrical Contractors' Licensing Board, created under part II of chapter 489.

~~(g)(h)~~ Board of Professional Engineers, created under chapter 471.

~~(h)(i)~~ Board of Funeral Directors and Embalmers, created under chapter 470.

~~(i)(j)~~ Board of Professional Geologists, created under chapter 492.

~~(j)(k)~~ Board of Hearing Aid Specialists, created under part II of chapter 484.

~~(k)(l)~~ Board of Professional Land Surveyors, created under chapter 472.

~~(l)(m)~~ Board of Landscape Architecture, created under part II of chapter 481.

~~(m)(n)~~ Board of Massage, created under chapter 480.

~~(n)(o)~~ Board of Nursing Home Administrators, created under part II of chapter 468.

~~(o)(p)~~ Board of Opticianry, created under part I of chapter 484.

~~(p)(q)~~ Board of Pilot Commissioners, created under chapter 310.

~~(q)(r)~~ Board of Employee Leasing Companies, created under part XI of chapter 468.

(5) The following boards are established within the Department of Professional Regulation, Division of Medical Quality Assurance:

(a) Board of Medicine, created under chapter 458.

(b) Board of Osteopathic Medicine, created under chapter 459.

(c) Board of Acupuncture, created under chapter 457.

(d) Board of Chiropractic, created under chapter 460.

(e) Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling, created under chapter 491.

(f) Board of Dentistry, created under chapter 466.

(g) Board of Nursing, created under chapter 464.

(h) Board of Optometry, created under chapter 463.

(i) Board of Pharmacy, created under chapter 465.

(j) Board of Physical Therapy Practice, created under chapter 486.

(k) Board of Podiatric Medicine, created under chapter 461.

(l) Board of Psychological Examiners, created under chapter 490.

(m) Board of Veterinary Medicine, created under chapter 474.

(n) Board of Speech-Language Pathology and Audiology, created under part I of chapter 468.

(o) Board of Clinical Laboratory Personnel, created by s. 483.805.

(6) The following board and commission are established within the Department of Professional Regulation, Division of Real Estate:

(a) Florida Real Estate Commission, created under part I of chapter 475.

(b) Florida Real Estate Appraisal Board, created under part II of chapter 475.

(7) The following board is established within the Department of Professional Regulation, Division of Certified Public Accounting.

(a) Board of Accountancy, created under chapter 473.

~~(8)(7)~~ The members of each board established pursuant to subsections (4), (5), and (6), and (7) shall be appointed by the Governor, subject to confirmation by the Senate. Consumer members on the board shall be appointed pursuant to subsection (9)(8). Members shall be appointed for 4-year terms and such terms shall expire on October 31. However, a term of less than 4 years may be utilized to ensure the following:

(a) No more than two members' terms shall expire during the same calendar year for boards consisting of seven or eight members.

(b) No more than three members' terms shall expire during the same calendar year for boards consisting of nine to twelve members.

(c) No more than five members' terms shall expire during the same calendar year for boards consisting of thirteen or more members.

(d) A member whose term has expired shall continue to serve on the board until such time as a replacement is appointed.

A vacancy on the board shall be filled for the unexpired portion of the term in the same manner as the original appointment. No member shall serve for more than the remaining portion of a previous member's unexpired term, plus two consecutive 4-year terms of the member's own appointment thereafter.

(9)(8) Each board with five or more members shall have at least two consumer members who are not, and have never been, members or practitioners of the profession regulated by such board or of any closely related profession. Each board with fewer than five members shall have at least one consumer member who is not, and has never been, a member or practitioner of the profession regulated by such board or of any closely related profession.

(10)(9) No board, with the exception of joint coordinators, shall be transferred from its present location unless authorized by the Legislature in the General Appropriations Act.

(11)(10) It is legislative intent that all newly regulated professions, and all professions newly regulated under the department, shall be regulated directly under the department unless a compelling need for the existence of a board is documented. In an instance where a board is statutorily established, the department shall not create the board for a minimum of 1 full year after statutory authority regulating a profession becomes effective, and the profession shall initially be directly regulated by the department. Prior to implementing a new board or council, the department shall seek and receive specific legislative authorization. Such recommendation to establish a new board or council shall be included in the department's annual report to the Legislature required by s. 455.2285.

Section 2. Effective July 1, 1993, section 20.30, Florida Statutes, as amended by section 32 of chapter 92-33, Laws of Florida, section 35 of chapter 92-58, Laws of Florida, and sections 1, 72, and 159 of chapter 92-149, Laws of Florida, is amended to read:

20.30 Department of Professional Regulation.—There is created a Department of Professional Regulation.

(1) The head of the Department of Professional Regulation is the Secretary of Professional Regulation. The secretary shall be appointed by the Governor subject to confirmation by the Senate. The secretary shall serve at the pleasure of the Governor.

(2) The following divisions of the Department of Professional Regulation are established:

- (a) Division of Technology, Testing and Training.
- (b) Division of Professions.
- (c) Division of Real Estate.

1. The director of the division shall be appointed by the Secretary of Professional Regulation, subject to approval by a majority of the Florida Real Estate Commission.

2. The offices of the Division of Real Estate shall be located in Orlando.

- (d) Division of Regulation.
- (e) Division of Administration.
- (f) *Division of Certified Public Accounting.*

1. *The director of the division shall be appointed by the Secretary of Professional Regulation, subject to approval by a majority of the Board of Accountancy.*

2. *The offices of the division shall be located in Gainesville.*

(3) There shall be a director for each division established within this section. Each division director shall directly administer the division and shall be responsible to the secretary of the department. The secretary of the department may appoint assistant secretaries as necessary to fulfill the secretary's statutory obligations.

(4) The following boards are established within the Department of Professional Regulation, Division of Professions:

- ~~(a) Board of Accountancy, created under chapter 473.~~
- ~~(a)(b) Board of Architecture and Interior Design, created under part I of chapter 481.~~
- ~~(b)(c) Board of Auctioneers, created under part VI of chapter 468.~~
- ~~(c)(d) Barbers' Board, created under chapter 476.~~
- ~~(d)(e) Construction Industry Licensing Board, created under part I of chapter 489.~~
- ~~(e)(f) Board of Cosmetology, created under chapter 477.~~
- ~~(f)(g) Electrical Contractors' Licensing Board, created under part II of chapter 489.~~
- ~~(g)(h) Board of Professional Engineers, created under chapter 471.~~
- ~~(h)(i) Board of Funeral Directors and Embalmers, created under chapter 470.~~
- ~~(i)(j) Board of Professional Geologists, created under chapter 492.~~
- ~~(j)(k) Board of Hearing Aid Specialists, created under part II of chapter 484.~~
- ~~(k)(l) Board of Professional Land Surveyors, created under chapter 472.~~
- ~~(l)(m) Board of Landscape Architecture, created under part II of chapter 481.~~
- ~~(m)(n) Board of Massage, created under chapter 480.~~
- ~~(n)(o) Board of Pilot Commissioners, created under chapter 310.~~
- ~~(o)(p) Board of Employee Leasing Companies, created under part XI of chapter 468.~~
- ~~(p)(q) Board of Veterinary Medicine, created under chapter 474.~~

(5) The following board and commission are established within the Department of Professional Regulation, Division of Real Estate:

- (a) Florida Real Estate Commission, created under part I of chapter 475.
- (b) Florida Real Estate Appraisal Board, created under part II of chapter 475.

(6) *The following board is established within the Department of Professional Regulation, Division of Certified Public Accounting.*

- (a) Board of Accountancy, created under chapter 473.*

(7)(6) The members of each board established pursuant to subsections (4), (5), and (6) shall be appointed by the Governor, subject to confirmation by the Senate. Consumer members on the board shall be appointed pursuant to subsection (8). Members shall be appointed for 4-year terms and such terms shall expire on October 31. However, a term of less than 4 years may be utilized to ensure the following:

(a) No more than two members' terms shall expire during the same calendar year for boards consisting of seven or eight members.

(b) No more than three members' terms shall expire during the same calendar year for boards consisting of nine to twelve members.

(c) No more than five members' terms shall expire during the same calendar year for boards consisting of thirteen or more members.

(d) A member whose term has expired shall continue to serve on the board until such time as a replacement is appointed.

A vacancy on the board shall be filled for the unexpired portion of the term in the same manner as the original appointment. No member shall serve for more than the remaining portion of a previous member's unexpired term, plus two consecutive 4-year terms of the member's own appointment thereafter.

(8)(7) Each board with five or more members shall have at least two consumer members who are not, and have never been, members or practitioners of the profession regulated by such board or of any closely related profession. Each board with fewer than five members shall have at least one consumer member who is not, and has never been, a member or practitioner of the profession regulated by such board or of any closely related profession.

(9)(8) No board, with the exception of joint coordinators, shall be transferred from its present location unless authorized by the Legislature in the General Appropriations Act.

(10)(9) It is legislative intent that all newly regulated professions, and all professions newly regulated under the department, shall be regulated directly under the department unless a compelling need for the existence of a board is documented. In an instance where a board is statutorily established, the department shall not create the board for a minimum of 1 full year after statutory authority regulating a profession becomes effective, and the profession shall initially be directly regulated by the department. Prior to implementing a new board or council, the department shall seek and receive specific legislative authorization. Such recommendation to establish a new board or council shall be included in the department's annual report to the Legislature required by s. 455.2285.

Section 3. Section 473.302, Florida Statutes, is amended to read:

473.302 Definitions.—As used in this act, *the term*:

- (1) "Board" means the Board of Accountancy.
- (2) "Department" means the Department of Professional Regulation.
- (3) "Division" means the *Division of Certified Public Accounting*.

(4)(3) "Certified public accountant" means a person who holds a license to practice public accounting in this state under the authority of this act.

(5)(4) "Practice of," "practicing public accountancy," or "public accounting" means:

(a) Offering to perform or performing for the public one or more types of services involving the use of accounting skills, or one or more types of management advisory or consulting services, by a certified public accountant, or firm of certified public accountants, of this state, including the performance of such services in the employ of another person; or

(b) Offering to perform or performing for the public one or more types of services involving the use of accounting skills, or one or more types of management advisory or consulting services, by any other person holding himself or itself out as a certified public accountant or a firm of certified public accountants, including the performance of such services by a certified public accountant in the employ of a person so holding himself or itself out.

However, these terms shall not include services provided by the American Institute of Certified Public Accountants or the Florida Institute of Certified Public Accountants, or any full service association of certified public accounting firms whose plans of administration have been approved by the board, to their members or services performed by these entities in reviewing the services provided to the public by members of these entities.

Section 4. Section 473.3035, Florida Statutes, is created to read:

473.3035 Division of Certified Public Accounting.—

(1) All services concerning this chapter, including, but not limited to, recordkeeping services, examination services, legal services, and investigative services, and those services in chapter 455 necessary to perform the duties of this chapter shall be provided by the Division of Certified Public Accounting. The board may, by majority vote, delegate a duty or duties to the appropriate division within the department. The board may, by majority vote, rescind any such delegation of duties at any time.

(2) The Division of Certified Public Accounting shall be funded by fees and assessments of the board, and funds collected by the board shall be used only to fund public accounting regulation. Funding for the Division of Certified Public Accounting shall be governed by s. 215.37 and s. 455.219.

Section 5. Section 473.304, Florida Statutes, is amended to read:

473.304 Rules of board; powers and duties; legal services.—

(1) The board shall adopt all rules necessary to administer this act. Every licensee shall be governed and controlled by this act and the rules adopted by the board.

(2) *Subject to the prior approval of the Attorney General, the board may retain independent legal counsel to provide legal advice to the board on a specific matter.*

(3) *An attorney employed or used by the board may not both prosecute a matter and provide legal services to the board with respect to the same matter.*

Section 6. Except as otherwise expressly provided in this act, this act shall take effect October 1, 1992.

And the title is amended as follows:

In title, on page 1, strike all of lines 13-15 and insert: the Board of Accountancy;

On motion by Senator Forman, by two-thirds vote **SB 226-H** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—29 Nays—None

SENATOR WEINSTEIN PRESIDING

SB 228-H—A bill to be entitled An act relating to the Department of Transportation; adopting the performance and productivity standards, measures, and goals adopted by the Florida Transportation Commission for evaluating the performance of the Department of Transportation; providing for reports by specified entities; recommending modifications to the standards, measures, and goals so adopted; amending s. 334.045, F.S.; postponing the date when annual evaluations of the department's performance and productivity will commence under that section; providing an effective date.

—was read the second time by title.

Senator Forman moved the following amendment which was adopted:

Amendment 1 (with Title Amendment)—On page 2, line 21, strike everything after the enacting clause and insert:

Section 1. The performance and productivity standards, measures, and goals adopted by the Florida Transportation Commission pursuant to section 334.045, Florida Statutes, relating to evaluation of the performance of the Department of Transportation are hereby approved with such modifications as are subsequently adopted by the Florida Transportation Commission, in consultation with Partners in Productivity.

Section 2. Subsection (6) of section 334.045, Florida Statutes, as amended by section 91 of chapter 92-152, Laws of Florida, is amended to read:

334.045 Transportation performance and productivity standards; development; measurement; application.—

(6) Beginning October 1, 1992, the department shall also be evaluated annually for performance and productivity based upon the department's fiscal year ending the previous June 30. The commission shall, by a majority vote, make findings regarding the standards, measures, and goals applicable to the department as soon thereafter as practicable. *Beginning July 1, 1993, in the event the department fails to meet the assigned performance and productivity standards, measures, or goals, funding authorized to the department from the State Transportation Trust Fund for the current fiscal year shall not exceed the funding level from the trust fund for fiscal year 1989-1990, except as necessary pursuant to subsection (7). In such event, the department shall proceed to amend the adopted work program pursuant to s. 339.135(7), except that all amendments, as defined in s. 339.135(7)(c), necessary to the adopted work program to accomplish such reduction shall be submitted to the Governor for approval as individual amendments which shall be subject to the provisions of s. 339.135(7)(d). Notice for said amendments shall be provided for each amendment, as defined in s. 339.135(7)(c), which is a component of the amendment necessary to accomplish said reduction pursuant to s. 339.135(7)(d).*

Section 3. This act shall take effect upon becoming a law.

And the title is amended as follows:

In title, on page 1, strike all of lines 1-14 and insert: A bill to be entitled An act relating to the Department of Transportation; approving the performance and productivity standards, measures, and goals adopted by the Florida Transportation Commission for evaluating the performance of the Department of Transportation; amending s. 334.045, F.S.; postponing the date when annual evaluations of the department's performance and productivity may result in a budget reduction under that section; providing an effective date.

On motion by Senator Forman, by two-thirds vote **SB 228-H** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—36 Nays—None

The Senate resumed consideration of—

CS for SB 102-H—A bill to be entitled An act relating to public retirement systems; amending s. 20.13, F.S., relating to the structure of the Department of Insurance, to delete duties of the Division of Benefits that are assigned elsewhere or eliminated by this act; amending s. 112.363, F.S.; increasing the retiree health insurance subsidy rate; increasing the employer contribution rate to fund the increased subsidy; creating s. 112.666, F.S.; creating the Florida Protection of Public Employee Retirement Benefits Trust Fund; providing for annual assessment of local retirement systems or plans to pay for the cost of administering the Florida Protection of Public Employee Retirement Benefits Act; providing legislative intent with respect to governmental retirement systems; amending s. 121.021, F.S.; conforming the definition of the term "covered group" as used with respect to the Florida Retirement System to a change in terminology made by this act; amending ss. 121.052, 121.055, 121.071, 121.40, F.S.; revising contribution rates applicable to members of the Elected State and County Officers' Class, the Senior Management Service Class, and the Regular, Special Risk, and Special Risk Administrative Support Classes of the Florida Retirement System and the contribution rate applicable to the supplemental retirement plan for the Institute of Food and Agricultural Sciences of the University of Florida; amending s. 121.091, F.S., revising death benefit provisions under the Florida Retirement System; providing for reinstatement of benefit to a surviving spouse whose benefit terminated because of remarriage; providing for retrospective application; amending ss. 122.08, 122.35, F.S.; advancing the effective date for provisions that provide for retirement after 30 years of service for members of the State and County Officers and Employees' Retirement System; amending ss. 175.021, 175.032, 175.041, 175.061, 175.071, 175.081, 175.091, 175.101, 175.111, 175.121, 175.122, 175.131, 175.141, 175.152, 175.162, 175.191, 175.201, 175.211, 175.251, 175.261, 175.291, 175.301, 175.311, 175.321, 175.341, 175.351, 175.361, 175.401, 185.02, 185.05, 185.10, 185.221, 185.23, 185.35, 185.37, 185.50, F.S., relating to municipal firefighters' and police officers' pension or retirement plans and retiree health insurance subsidies; transferring certain powers, duties, and functions of the Department of Insurance respecting those plans and subsidies to the Department of Administration and assigning these and other duties respecting those plans and

subsidies to the Division of Retirement; providing for inclusion of matters assigned to the Division of Retirement in the transfer of the division to the Department of Management Services at a subsequent time; providing for transfer of related records, personnel, property, and funds; providing for continuation of certain existing rules of the Department of Insurance as rules of the division; abolishing the Bureau of Municipal Police Officers' and Firefighters' Pension Funds of the Division of Benefits of the Department of Insurance; providing for disposition of premium tax moneys collected under chs. 175 and 185, F.S.; providing for annual appropriation of such moneys; providing for payment of the respective expenses of the Department of Insurance and the Division of Retirement in administering their respective duties under chs. 175 and 185, F.S.; providing that it is the legislative intent that firefighters employed by special fire control districts should be entitled to the same retirement benefits as municipal firefighters; providing for pension funds, retirement benefits, and retiree health insurance subsidies for firefighters employed by special fire control districts, which funds, benefits, and subsidies are subject to the same statutory requirements as pension funds and retirement benefits for municipal firefighters; clarifying that undistributed funds are annually transferred to support the firefighters' supplemental compensation program; providing for redistribution of certain funds to certain municipalities and special fire control districts; conforming the provisions of chs. 175 and 185, F.S., to this act; conforming cross-references; deleting obsolete provisions; revising terminology; improving clarity; repealing s. 185.24, F.S., relating to annual appropriations for administrative expenses, which section is superseded by this act; amending ss. 238.07, 238.11, F.S.; advancing the effective date for provisions that provide for retirement after 30 years of service for members of the Teachers' Retirement System of Florida; amending s. 624.520, F.S., relating to preemption by the state of insurer premium taxes, to conform that section to changes by this act; amending s. 633.382, F.S., relating to the Firefighters Supplemental Compensation Trust Fund; providing for curing of deficits; providing for redistribution of certain funds; providing effective dates.

—with pending **Amendment 2** by Senator Gardner which was withdrawn.

On motion by Senator Childers, by two-thirds vote **CS for SB 102-H** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—33 Nays—1

CS for HB 67-H—A bill to be entitled An act relating to the licensure and recruitment of adult foster homes; canceling transfer of regulation of adult foster homes to the Agency for Health Care Administration; repealing s. 30 of ch. 92-33, Laws of Florida; canceling transfer of recruitment and licensure authority for adult foster homes to the agency; providing an effective date.

—was read the second time by title.

Senator Weinstock moved the following amendment which was adopted:

Amendment 1 (with Title Amendment)—Strike everything after the enacting clause and insert:

Section 1. Section 400.623, Florida Statutes, as amended by section 30 of chapter 92-33, Laws of Florida, is amended to read:

400.623 Recruitment.—The *Department of Health and Rehabilitative Services* ~~Agency for Health Care Administration~~ shall recruit and license an appropriate number of adult foster homes to serve the clients of the department of ~~Health and Rehabilitative Services~~. When a licensed adult foster home accepts more than one resident not placed in the home by the Department of Health and Rehabilitative Services, the ~~department Agency for Health Care Administration~~ shall cancel the license issued pursuant to this section and require the home to make application for licensure as an adult congregate living facility in accordance with the provisions of part II of this chapter.

Section 2. Notwithstanding section 10 of chapter 92-33, Laws of Florida, the Department of Health and Rehabilitative Services, in consultation with the Agency for Health Care Administration, shall develop rules for the licensure of intermediate care facilities for the developmentally disabled under sections 393.067-393.0678, Florida Statutes, crisis stabilization units and residential treatment facilities under section 394.875, Florida Statutes, adult congregate living facilities under part II of chapter 400, Florida Statutes, and adult day care centers under part IV of

chapter 400, Florida Statutes. Rulemaking authority for the licensure of those facilities shall be retained by the Department of Health and Rehabilitative Services and shall not be transferred to the Agency for Health Care Administration.

Section 3. The Division of Statutory Revision of the Joint Legislative Management Committee shall prepare a reviser's bill to change "Department of Health and Rehabilitative Services" to "Agency for Health Care Administration," and "Secretary of Health and Rehabilitative Services" to "Director of Health Care Administration," wherever the terms appear:

(1) With respect to the regulation of the specified health facilities, as consistent with the intent and purposes of chapter 92-33, Laws of Florida, as amended by this act, in the following subdivisions of the Florida Statutes:

(a) Section 381.6021, relating to organ and tissue procurement organizations.

(b) Sections 383.30-383.335, relating to birth centers.

(c) Chapter 390, relating to abortion clinics.

(d) Part II of chapter 391, relating to prescribed pediatric extended care centers.

(e) Sections 393.067-393.0678, relating to intermediate care facilities for the developmentally disabled, except for provisions relating to rulemaking.

(f) Section 394.875, relating to crisis stabilization units and residential treatment facilities, except for provisions relating to rulemaking.

(g) Chapter 395, relating to hospitals, mental health institutions, and ambulatory surgical centers.

(h) Parts I, III, and V of chapter 400, relating to nursing homes, home health agencies, and hospices.

(i) Parts II and IV of chapter 400, relating to adult congregate living facilities and adult day care centers, except for provisions relating to rulemaking.

(j) Parts I-III of chapter 483, relating to clinical laboratories, multi-phasic health testing centers, and cholesterol screening centers.

(k) Part III of chapter 641, relating to health maintenance organizations and prepaid health clinics.

(2) With respect to the regulation of the specified health care professions, as consistent with the intent and purposes of chapter 92-33, Laws of Florida, as amended by this act, chapter 467, relating to midwifery.

(3) With respect to other regulatory responsibilities, as consistent with the intent and purposes of chapter 92-33, Laws of Florida, as amended by this act, in the following subdivisions of the Florida Statutes: sections 154.304(7), 196.1975(2), 205.1965, 381.6022 through 381.6024, 408.05, 415.107(2)(a), 766.105(2)(c)2., and 766.105(2)(d)2.

Section 4. Section 11 of chapter 92-33, Laws of Florida, is repealed.

Section 5. This act shall take effect upon becoming a law.

And the title is amended as follows:

Strike everything before the enacting clause and insert: A bill to be entitled An act relating to health and human services; amending s. 400.623, F.S.; providing for licensure of adult foster homes by the Department of Health and Rehabilitative Services rather than the Agency for Health Care Administration to serve clients of the department; preserving rulemaking authority of the Department of Health and Rehabilitative Services with respect to licensure of intermediate care facilities for the developmentally disabled, crisis stabilization units and residential treatment facilities, adult congregate living facilities, and adult day care centers, notwithstanding ch. 92-33, Laws of Florida; directing the Division of Statutory Revision of the Joint Legislative Management Committee to prepare a reviser's bill to make certain changes consistent with the intent and purposes of ch. 92-33, Laws of Florida, as amended; repealing s. 2, ch. 92-33, Laws of Florida, relating to directions for preparing the official edition of the Florida Statutes; providing an effective date.

On motion by Senator Weinstock, by two-thirds vote **CS for HB 67-H** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34 Nays—None

THE PRESIDENT PRESIDING

SB 180-H—A bill to be entitled An act relating to the driver history records of the Department of Highway Safety and Motor Vehicles; amending s. 322.20, F.S.; authorizing the department to sell copies of its driver history record data base to insurers for a negotiated price; providing limitations; providing an effective date.

—was read the second time by title. On motion by Senator Grant, by two-thirds vote **SB 180-H** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36 Nays—None

SB 210-H—A bill to be entitled An act relating to banks and financial institutions; reviving and readopting chs. 655, 657, 658, 660, 661, 662, 663, 664, 665, F.S., relating to the regulation of financial institutions notwithstanding the Regulatory Sunset Act; reviving and readopting ss. 657.026, 657.027, F.S., relating to credit union supervisory committees and credit committees, notwithstanding the Sundown Act; reviving and readopting ss. 655.029, 655.033, 655.057, 655.50, 663.02, 665.048, F.S., relating to records of financial institutions, notwithstanding the Open Government Sunset Review Act; amending ss. 159.602, 159.608, F.S.; authorizing a housing finance authority to own and operate a savings and loan bank; providing a purpose; providing for the reinvestment of proceeds; providing minimum capital requirements; requiring compliance with state and federal banking regulations; amending s. 655.001, F.S.; expanding the scope of the section to specify the purposes and application of the financial institutions codes rather than of ch. 655, F.S.; amending s. 655.005, F.S.; altering and adding definitions applicable to ch. 655, F.S.; amending s. 655.012, F.S., relating to general supervisory powers of the Department of Banking and Finance, to conform; creating s. 655.013, F.S.; providing for the act's effect on existing financial institutions; creating s. 655.015, F.S.; providing for construction of the act and standards to be observed by the department; transferring, renumbering, and amending s. 655.021, F.S., relating to administrative enforcement guidelines; transferring, renumbering, and amending s. 655.025, F.S., concerning department investigations, subpoenas, hearings, and witnesses; transferring, renumbering, and amending s. 655.029, F.S.; requiring hearings and proceedings to be public except under certain circumstances; providing for future legislative review, under the Open Government Sunset Review Act, of this exemption from public records requirements; creating s. 655.0322, F.S.; prescribing prohibited acts and practices; providing criminal penalties; amending s. 655.033, F.S.; revising the grounds upon which, and the parties against which, the department may issue a cease and desist order; revising an exemption from the public records requirements for emergency cease and desist orders; providing for future legislative review of this exemption under the Open Government Sunset Review Act; amending s. 655.034, F.S., relating to injunctions; inserting the term "members" to conform; amending s. 655.037, F.S., relating to removal of officers, directors, and others by the department; revising the list of persons that may be so removed and revising the grounds upon which such persons may be removed; revising the procedure therefor; creating s. 655.0385, F.S.; providing for the disapproval of directors and executive officers of a state financial institution by the department; creating s. 655.0386, F.S.; restricting conduct of, and transactions by, financial institution-affiliated parties; creating s. 655.0391, F.S.; providing for retention of supervision of financial institutions by the department; creating s. 655.0392, F.S.; allowing a financial institution to rent space from a governmental entity under certain circumstances; authorizing a governmental entity to rent such space at a certain rate; deleting provisions for disposition of fines; amending s. 655.041, F.S.; expanding the department's authority to impose administrative fines; amending s. 655.044, F.S.; revising record-keeping requirements; providing for recovery of certain costs; amending s. 655.045, F.S.; revising the examination authority of the department; amending s. 655.047, F.S.; clarifying the application period of assessments; allowing proration of assessments but prohibiting refunds of portions of assessments; deleting provisions for disposition of assessments; amending s. 655.049, F.S.; clarifying the types of fees that are required to be deposited into the Financial Institutions' Regulatory Trust Fund; amending s. 655.053, F.S.; revising the annual report requirements; amending s. 655.057, F.S.; revising the restrictions on public access to certain records; providing for future legislative review, under the Open Government Sunset Review Act, of these exemptions from public records requirements; amending s. 655.059, F.S.; providing certain law enforcement agencies access to a financial institution's books and records; amending s. 655.061, F.S., relating to competitive equality with federally organized or chartered financial institutions; providing for the section to

take precedence over other state statutes; amending s. 655.41, F.S., relating to cross-industry conversions, mergers, consolidations, and acquisitions; replacing the term "financial institution" with the term "financial entity" with reference thereto; amending s. 655.411, F.S.; revising conversion-of-charter requirements; amending s. 655.412, F.S.; revising merger and consolidation requirements; amending s. 655.414, F.S.; revising the conditions and limitations upon which a financial entity may acquire all or substantially all the assets or liabilities of another financial entity; amending s. 655.416, F.S.; providing for the valuation of assets after an acquisition; amending s. 655.417, F.S.; conforming provisions relating to the effect of merger, consolidation, conversion, or acquisition; amending s. 655.418, F.S.; conforming provisions relating to cessation of nonconforming activities; amending s. 655.419, F.S.; clarifying the applicability of provisions for merger, consolidation, conversion, or acquisition of assets; amending s. 655.50, F.S.; revising the provisions of, and the penalties for violation of, the Florida Control of Money Laundering in Financial Institutions Act; providing for confidentiality of reports and records thereunder; providing for future legislative review, under the Open Government Sunset Review Act, of this exemption from public records requirements; extending the act's penalties to cover violations of ch. 896, F.S., or similar state or federal statutes; amending s. 655.51, F.S.; allowing financial institution regulatory agencies access to certain employment information; amending s. 655.55, F.S., relating to the law applicable to deposits in and contracts related to extensions of credit by financial institutions; replacing the term "financial institution" with the term "deposit or lending institution" and defining that term; creating s. 655.56, F.S.; providing for the collection of fines, interest, or premiums on loans made by financial institutions; creating s. 655.60, F.S.; providing for appraisals of state financial institutions, subsidiaries, or service corporations by the department; creating s. 655.762, F.S.; regulating the sale of assets by a state financial institution; creating s. 655.769, F.S.; providing definitions related to deposits in deposit or lending institutions; creating s. 655.77, F.S.; providing for deposits by minors; creating s. 655.78, F.S.; providing for deposit accounts in two or more names; creating s. 655.79, F.S.; establishing a presumption as to vesting on death when deposits and accounts are in two or more names; creating s. 655.80, F.S.; defining and establishing requirements for convenience accounts; creating s. 655.81, F.S.; providing for deposits in trust; creating s. 655.83, F.S.; providing for adverse claims to deposit or fiduciary accounts; creating s. 655.84, F.S.; establishing a presumption as to correctness concerning statements of account; creating s. 655.85, F.S.; providing for settlement of checks; creating s. 655.86, F.S.; regulating the issuance of postdated checks; creating s. 655.89, F.S.; defining "legal holidays," "business days," and "transactions"; creating s. 655.90, F.S.; providing for the closing of deposit or lending institutions during emergencies and other special days; creating s. 655.91, F.S.; providing recordkeeping requirements for such institutions; creating s. 655.921, F.S.; providing for transaction of business by out-of-state financial institutions; creating s. 655.922, F.S.; prohibiting banking by unauthorized persons; providing penalties; creating s. 655.93, F.S.; providing definitions related to the leasing of safe-deposit boxes; creating s. 655.931, F.S.; authorizing financial institutions to engage in the safe-deposit business; creating s. 655.932, F.S.; authorizing the leasing of a safe-deposit box to a minor; creating s. 655.933, F.S.; providing for access to safe-deposit boxes by fiduciaries; creating s. 655.934, F.S.; specifying the effect of the death or incapacity of the lessee of a safe-deposit box; creating s. 655.935, F.S.; establishing safe-deposit search procedures on the death of the lessee; creating s. 655.936, F.S.; providing for the delivery of safe-deposit box contents or other property to a personal representative; creating s. 655.937, F.S.; providing for access to a safe-deposit box leased in two or more names; creating s. 655.938, F.S.; providing for adverse claims to the contents of a safe-deposit box; creating s. 655.939, F.S.; limiting the right of access to a safe-deposit box for failure to comply with security procedures; creating s. 655.94, F.S.; providing special remedies for the nonpayment of rent for a safe-deposit box; creating s. 655.942, F.S.; specifying standards of conduct for financial institutions; providing exceptions; creating s. 655.943, F.S.; specifying requirements for certain applications relating to financial institutions; creating s. 655.946, F.S.; providing for single interest insurance by financial institutions; requiring notice of such insurance; providing criteria for issuing such insurance; creating s. 655.949, F.S.; requiring the department to establish qualifications for certain positions in the Office of the Comptroller and in the department; requiring the Department of Banking and Finance to adopt certain rules; requiring the Comptroller to establish and implement a conflict-of-interest policy; providing guidelines; amending s. 657.002, F.S.; providing definitions; amending s. 657.004, F.S.; deleting a penalty; amending s. 657.005, F.S.; providing credit union organizational procedures and forms; creating s. 657.0061, F.S.; requiring the submission

of bylaw amendments to the Department of Banking and Finance; amending s. 657.008, F.S.; authorizing armored car services and deleting the requirement that all records be kept at the principal place of business as described within the bylaws; amending s. 657.021, F.S.; defining the duties and powers of the board of directors; amending s. 657.023, F.S.; clarifying certain language; amending s. 657.026, F.S.; authorizing audit committees and defining the duties and responsibilities of these committees; amending s. 657.0265, F.S.; prescribing the liability of audit committee members; amending s. 657.027, F.S.; clarifying certain language; amending s. 657.028, F.S.; prohibiting certain persons from serving as an officer, director, or committee member; deleting provisions specifying certain unlawful activities on the part of an official, director, or employee of a credit union; deleting a penalty; amending s. 657.031, F.S.; clarifying language and deleting language requiring notice to the department concerning certain authorized activities; creating s. 657.0315, F.S.; prohibiting credit unions from entering into certain contracts; limiting the enforceability of these contracts; amending s. 657.033, F.S.; clarifying the definition of dormant accounts; amending s. 657.038, F.S.; deleting reference to an 18-percent usury cap and defining the term "related interest"; amending s. 657.039, F.S.; prescribing conditions for credit union loans to its directors, officers, and employees; defining the term "related interests"; amending s. 657.042, F.S.; increasing the allowable percentage of certain types of investments and clarifying the authority to invest in mutual funds; amending s. 657.043, F.S.; replacing the term "gross earnings" with the term "all income for the period"; modifying the definition of "risk assets" and increasing the amount of reserve amounts; amending s. 657.053, F.S.; revising the amounts of the semiannual assessments collected from credit unions; amending s. 657.055, F.S.; mandating the type and length of time certain records must be maintained; amending s. 657.062, F.S.; providing procedures for assumption of control of an insolvent credit union; amending s. 657.063, F.S.; authorizing the department to appoint a liquidator; limiting the enforceability of certain contracts; modifying procedures for involuntary liquidation; amending s. 657.064, F.S.; altering the procedures for undertaking a voluntary liquidation; amending s. 657.065, F.S.; prescribing voting requirements and procedures of a credit union merger; amending s. 657.068, F.S.; removing certain limitations on membership in a central credit union; amending s. 658.12, F.S.; providing definitions; amending s. 658.165, F.S.; correcting a cross-reference and inserting the term "financial institutions codes"; amending s. 658.20, F.S.; providing for prior approval of certain directors and executive officers of a failing bank or trust company; providing a filing fee for approval; amending s. 658.21, F.S.; altering the approval criteria of an application; amending s. 658.22, F.S.; revising requirements for coordinating state and federal applications to organize a state bank; amending s. 658.23, F.S.; requiring prior Department of Banking and Finance authorization for a change in the articles of incorporation; amending ss. 658.24, 658.25, F.S.; substituting the term "bank" for "banking corporation"; amending s. 658.26, F.S.; altering the locations where banks and trust companies may transact business; amending s. 658.27, F.S.; altering the definition of control over a bank or other business organization; amending s. 658.28, F.S.; providing an exception to the requirement that the department be given prior notice of any acquisition of voting securities; amending s. 658.29, F.S.; altering certain prohibitions concerning ownership and control of a bank or trust company; amending s. 658.30, F.S.; incorporating changes concerning the application of the Florida Business Corporation Act; deleting a limitation on certain offices that may be established within a bank; amending s. 658.32, F.S.; allowing the department to approve an annual meeting date which is not within the first 4 months of a given year; amending s. 658.33, F.S.; inserting the term "financial institutions codes"; requiring director's oath of office to be filed within 30 days of election; amending s. 658.34, F.S.; requiring shares of capital stock to be issued with a minimum par value and to be paid for in cash; amending s. 658.35, F.S.; requiring board and stockholder approval for the issuance of share options or warrants; providing for expiration of such options and warrants; amending s. 658.36, F.S.; requiring department approval for banks and trust companies to reduce outstanding common stock; amending s. 658.37, F.S.; clarifying that a stock split does not constitute a dividend; amending s. 658.38, F.S.; clarifying that a state bank must have and maintain Federal Deposit Insurance; amending s. 658.39, F.S.; restricting the right of stockholders to examine certain records; amending s. 658.40, F.S.; deleting the term "conversion"; amending s. 658.42, F.S.; providing a technical clarification; amending s. 658.43, F.S.; modifying the department's authority to issue emergency rules concerning a failing institution; amending s. 658.44, F.S.; relating to approval by stockholders; revising cross-references; amending s. 658.45, F.S.; providing a technical clarification; amending s. 658.48, F.S.; altering the loan and credit authority of a state bank; amending s.

658.53, F.S.; altering limits of indebtedness; prohibiting a bank or trust company from dealing in subordinated debt; amending s. 658.60, F.S.; deleting the term "reserves"; amending s. 658.65, F.S.; altering the provisions related to remote financial service units; amending s. 658.67, F.S.; altering the investment powers of a bank and trust company; amending s. 658.68, F.S.; altering the liquidity requirements of a state bank; amending s. 658.73, F.S.; increasing examination fees and assessments; amending s. 658.79, F.S.; allowing the department to take possession of an imminently insolvent state bank or trust company; deleting the conditions for determining insolvency; amending ss. 658.80, 658.82, 658.83, F.S.; providing a technical clarification; creating s. 658.995, F.S.; creating the Credit Card Bank Act; authorizing the creation of and providing for the regulation of credit card banks by the Department of Banking and Finance; amending s. 660.25, F.S.; redefining the term "commercial department"; providing for the use of terms defined in other chapters of the Florida Statutes; creating s. 660.265, F.S.; requiring certain financial institutions to pay the costs of examination by the Department of Banking and Finance; amending s. 660.27, F.S.; deleting references to state mutual associations with respect to deposits of securities with the Treasurer; clarifying the term "bank" to include state banks and national banks; amending s. 660.33, F.S.; prescribing when an association is "affiliated" or a "successor"; correcting a cross-reference; amending s. 660.37, F.S.; deleting references to the Federal Savings and Loan Insurance Corporation; permitting the deposit of fiduciary funds in amounts exceeding insurance in specified circumstances; amending s. 660.415, F.S.; authorizing trust companies and trust departments to invest in certain common trust funds; creating s. 660.417, F.S.; authorizing the investment of fiduciary funds into a mutual fund; providing for the charging of reasonable fees associated with such mutual fund investments; amending s. 660.42, F.S.; clarifying language defining the term "trust company or trust department"; amending s. 660.44, F.S.; authorizing a bank, association, or trust company to manage common trust funds; amending s. 663.01, F.S.; providing definitions; amending s. 663.02, F.S.; expanding the applicability of domestic bank powers to international banking corporations; deleting reference to a clarification concerning branching authority of bank holding companies located outside the state; providing for future legislative review, under the Open Government Sunset Review Act, of certain exemptions provided from public disclosure requirements; amending s. 663.03, F.S.; providing that ch. 607, F.S., regulating corporations applies to international banking corporations unless it conflicts with the banking code; amending s. 663.04, F.S.; prescribing conditions under which a license may be issued to an international banking corporation to operate an international bank agency or an international branch; deleting application fee; amending s. 663.05, F.S.; modifying the application requirements for an international banking corporation to maintain an office in this state; creating s. 663.055, F.S.; prescribing certain capital requirements as a condition of licensing; providing alternative requirements for licensing; amending s. 663.06, F.S.; expanding the permissible activities of an international banking corporation and allowing the department to prescribe by rule the procedures for surrendering a license; creating s. 663.061, F.S.; defining the permissible activities of international bank agencies; creating s. 663.062, F.S.; defining the permissible activities of an international representative office; amending s. 663.063, F.S.; altering the purposes and powers of an international administrative office; creating s. 663.064, F.S.; defining the permissible activities of an international branch; creating s. 663.065, F.S.; defining the permissible activities of a state investment company; creating s. 663.066, F.S.; authorizing, under certain conditions, the acquisition of state banks by international banking corporations; amending s. 663.07, F.S.; modifying the asset maintenance requirements of an international bank agency and international branch; amending s. 663.08, F.S.; providing for the certification of capital accounts of an international banking corporation; amending s. 663.083, F.S.; adding the term "international branch" and deleting language allowing capital debentures and notes to be treated as capital in computing capital limitations; amending s. 663.09, F.S.; providing for the consolidation of reports under certain circumstances; requiring loan documentation to be in the English language; amending s. 663.10, F.S.; modifying the provisions related to license conversion; amending s. 663.11, F.S.; replacing the term "international bank agency" with the term "office"; amending s. 663.12, F.S.; providing for filing fees, semiannual assessments, and examination fees; amending s. 663.13, F.S., relating to rule-making respecting international banking corporations; conforming a cross-reference; amending s. 663.14, F.S.; providing for the reimbursement to the Department of Banking and Finance of certain domestic travel expenses; amending s. 663.302, F.S., relating to the applicability of state banking laws to international development banks, to conform cross-references in that section to renumbering by this act; amending s.

663.309, F.S., relating to prohibited activities; deleting an obsolete cross-reference; amending s. 663.319, F.S., relating to rulemaking respecting regional development banks; conforming a cross-reference; amending s. 665.012, F.S.; altering and deleting certain definitions; creating s. 665.013, F.S.; outlining the applicability of ch. 658, F.S., to ch. 665, F.S.; amending s. 665.0211, F.S.; deleting exclusiveness-of-name provisions; amending s. 665.0315, F.S.; correcting a cross-reference and incorporating a nonrefundable filing fee; amending s. 665.033, F.S.; inserting reference to the financial institutions codes and permitting denial of an application due to the existence of a state-imposed order; increasing the fee for converting from a federal mutual to a state capital stock association and authorizing examination fees for conversions; revising a cross-reference; amending s. 665.0335, F.S.; removing the specific reference to the Federal Savings and Loan Insurance Corporation; amending s. 665.034, F.S.; changing certain requirements concerning acquisition of assets of, or control over, an association; amending s. 665.0501, F.S.; altering the general powers of an association organized under ch. 665, F.S.; amending s. 665.0711, F.S.; limiting the association's power to invest in loans; amending s. 665.074, F.S.; deleting the requirement that a settlement statement be furnished to each borrower; amending s. 665.1001, F.S.; clarifying the definition of a "foreign association"; deleting reference to the term "savings"; deleting a requirement relating to references to insurance or guaranty of accounts in advertising, solicitations, or representations; amending s. 665.1011, F.S.; deleting the term "savings and loan"; repealing s. 655.081, F.S., relating to disclosure of practices with respect to availability of funds; repealing s. 655.413, F.S., relating to acquisition of stock by a financial institution in another financial institution; repealing ch. 88-113, Laws of Florida, relating to a contingent amendment to s. 655.061, F.S.; repealing ss. 657.004, 657.029, 657.032, 657.034, 657.035, 657.036, 657.037, F.S., relating to credit unions; repealing ss. 658.1101, 658.13, 658.14, 658.15, 658.46, 658.47, 658.54, 658.55, 658.56, 658.57, 658.58, 658.59, 658.61, 658.62, 658.63, 658.64, 658.66, 658.69, 658.70, 658.71, 658.72, 658.74, 658.75, 658.76, 658.77, 658.78, 658.85, 658.86, 658.87, 658.88, 658.89, 658.91, 658.92, 658.93, 658.97, 658.98, 658.99, F.S., relating to the regulation of banks and trust companies; repealing s. 660.32, F.S., relating to the place of transacting trust business and trust company branches; repealing ss. 661.45-661.55, F.S., relating to regulating the safe-deposit business, in accordance with the Regulatory Sunset Act; repealing ss. 662.01-662.08, F.S., relating to bank service corporations, in accordance with the Regulatory Sunset Act; repealing ss. 664.01-664.12, F.S., relating to industrial savings banks, in accordance with the Regulatory Sunset Act; repealing ss. 665.011, 665.0201, 665.022, 665.023, 665.024, 665.025, 665.027, 665.028, 665.0301, 665.0311, 665.038, 665.0401, 665.044, 665.045, 665.047, 665.048, 665.0601, 665.0611, 665.062, 665.063, 665.064, 665.065, 665.066, 665.067, 665.068, 665.069, 665.0701, 665.0731, 665.076, 665.077, 665.0801, 665.082, 665.083, 665.093, 665.096, 665.097, 665.099, 665.102, 665.1021, 665.103, 665.104, F.S., relating to the regulation of savings associations; amending s. 154.238, F.S., relating to the authority of a health facilities authority to deal with a bank that employs a member of the authority, to conform terminology to that used in this act; amending s. 159.414, F.S., relating to the authority of a board of a local agency, under the Florida Industrial Development Financing Act, to deal with a bank that employs a board member, to conform terminology to that used in this act; amending s. 159.494, F.S., relating to the authority of an industrial development authority to deal with a bank that employs a member of the authority; amending s. 240.488, F.S., relating to the investment of funds of a county education loan authority, to conform terminology to that used in this act; amending s. 288.753, F.S., relating to examination of the Florida Export Finance Corporation by the Department of Banking and Finance, to conform terminology to that used in this act; amending s. 289.121, F.S., relating to examination of the Florida Industrial Development Corporation, to conform terminology to that used in this act; amending s. 420.141, F.S., relating to examination of the Housing Development Corporation of Florida, to conform terminology to that used in this act; amending s. 538.03, F.S., relating to definitions applicable to secondhand dealers, to conform a cross-reference made obsolete by this act; amending s. 607.0501, F.S., relating to registered offices and agents of corporations, to conform terminology to that used in this act; amending s. 627.826, F.S., relating to insurance premium finance companies, to delete a cross-reference to a law repealed by this act; amending s. 671.304, F.S., relating to laws not repealed by the enactment of the Uniform Commercial Code, to delete cross-references to laws repealed by this act; amending s. 687.12, F.S., relating to interest rates of licensed lenders and creditors, to revise a cross-reference to a law repealed by this act; amending s. 896.101, F.S., relating to the conduct of financial transactions involving the proceeds of unlawful activity, revising a definition to conform with this act; creating a community bank pilot program;

authorizing the investment of specified state funds; providing for the selection of participating financial institutions; requiring matching funds; requiring the establishment of guidelines for the pilot program; requiring an annual report; amending s. 494.0019, F.S.; clarifying the issue of liability in the case of an unlawful mortgage transaction; amending s. 494.006, F.S.; exempting insurance companies from ss. 494.006-494.0077, F.S.; transferring, renumbering, and amending s. 658.50, F.S., relating to loans or extensions of credit; improving clarity; amending s. 658.84, F.S.; prohibiting the enforcement of certain judicial actions; providing priorities for payment of unsecured claims against a financial institution; amending s. 660.41, F.S.; revising powers of corporations other than banks, associations, and trust companies with respect to fiduciary functions; amending s. 697.04, F.S.; providing for a secured interest on a future advance when related to an interest in a leasehold upon real property; providing for severability; providing an effective date.

—was read the second time by title.

Senator Childers moved the following amendments which were adopted:

Amendment 1—On page 199, line 26, strike "92-92" and insert: 92-82

Amendment 2—On page 309, strike all of lines 15-22 and insert:

(f) A listing of any occasion within the preceding 10-year period in which either the international banking corporation or any of its directors, executive officers, or principal shareholders has been convicted of or pled guilty or nolo contendere to any offense with respect to which the penalties include the possibility of imprisonment for 1 year or more, or to any offense involving money laundering or otherwise related to the operation of a financial institution.

Senators Diaz-Balart, Jenne, Souto and Casas offered the following amendment which was moved by Senator Diaz-Balart and failed:

Amendment 3 (with Title Amendment)—On page 386, lines 26-31; on page 387, lines 1-31; and on page 388, lines 1-10, strike all of said lines and insert:

Section 212. Section 658.50, Florida Statutes, is transferred, renumbered as section 655.954, Florida Statutes, and amended to read:

655.954 658.50 Financial Institution Bank loans; credit cards.—

(1) Any financial institution may ~~bank shall have the power to~~ make loans or extensions of credit to a ~~any~~ person on a credit card or overdraft financing arrangement and to charge, in any billing cycle, interest on the outstanding amount at a rate not exceeding the equivalent of 18 percent per annum, simple interest.

(2) For the purpose of this section, the term:

(a) "Billing cycle" has the same meaning as ascribed to it under the federal Truth in Lending Act, 15 U.S.C. ss. 1601 et seq., and the associated regulations which are in effect as of June 30, 1992 ~~April 1, 1988~~.

(b) "Interest" means those charges considered a finance charge under the federal Truth in Lending Act, 15 U.S.C. ss. 1601 et seq., and the associated regulations which are in effect as of June 30, 1992 ~~April 1, 1988~~.

~~(3) Notwithstanding the provisions of this section or any other law, a financial institution may impose and collect interest, finance charges, and credit service charges, as well as such other fees and charges which are material to the determination of the interest rate in connection with loans or extensions of credit to any person on a credit card or overdraft financial arrangement at such rates and in such amounts as financial institutions domiciled in any other state are permitted to impose and collect when making loans or extensions of credit to persons residing in this state.~~

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 21, strike all of lines 5-8 and insert. 494.006-494.0077, F.S.; transferring, renumbering, and amending s. 658.50, F.S., relating to loans or extensions of credit; revising interest rate limitations on credit cards or overdraft financing arrangements; improving clarity; amending s. 658.84, F.S.;

Senator Grizzle moved the following amendment which failed:

Amendment 4 (with Title Amendment)—On page 22, lines 12-31, and on page 23, lines 1-11, strike all of said lines and renumber subsequent sections.

And the title is amended as follows:

In title, on page 1, strike all of lines 15-21 and insert: Review Act; amending

On motion by Senator Childers, by two-thirds vote **SB 210-H** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—34 Nays—3

SB 170-H—A bill to be entitled An act relating to insurance; amending s. 322.20, F.S.; authorizing the Department of Highway Safety and Motor Vehicles to sell copies of its driver history record data base to insurers for a negotiated price; providing certain limitations; amending s. 627.062, F.S.; requiring documentation of risks that are subject to individual risk-rating; specifying provisions of the insurance code that do not apply to individual risk rates; creating s. 627.0613, F.S.; requiring the Insurance Commissioner to appoint a consumer advocate; providing duties of the consumer advocate; amending s. 627.162, F.S.; authorizing insurers to charge delinquency and collection fees; providing certain limitations on fees and charges; amending s. 627.311, F.S.; requiring the joint underwriting association to provide lists of insureds to association members; prohibiting the joint underwriting plan from offering certain credits or discounts; deleting a requirement that self-insurers participate in the joint underwriting association; amending s. 626.022, F.S.; revising application of part I, ch. 626, F.S.; amending s. 626.031, F.S.; redefining the term “agent” for purposes of part I, ch. 626, F.S.; amending s. 626.241, F.S.; providing requirements for licensure examinations for title insurance agents; amending s. 626.2815, F.S., providing continuing education requirements for title insurance agents; amending s. 626.331, F.S.; providing a limitation on agents and agency licenses; amending s. 626.611, F.S.; providing circumstances under which the department may deny, suspend, revoke, or refuse to renew a title agent’s license or appointment; amending s. 626.841, F.S.; providing definitions; creating s. 626.8411, F.S.; providing for application of part II, ch. 626, F.S., to title insurance agents; providing an exemption; creating s. 626.8412, F.S.; providing licensure and appointment requirements for title insurance agents; creating s. 626.8414, F.S.; providing licensure requirements for title insurance agents; providing certain exemptions from the examination requirement; amending s. 626.8417, F.S.; revising qualification requirements for licensure as a title insurance agent; authorizing the designation of an insurer’s corporate officer to take certain actions on behalf of the insurer; providing an exemption from licensing and appointment requirements; creating s. 626.8418, F.S.; providing application requirements for licensure as a title insurance agency; providing requirements for a surety deposit or bond; creating s. 626.8419, F.S.; providing for the appointment of title insurance agencies by title insurers; requiring a fidelity bond and errors and omissions insurance of specified amounts; amending s. 627.7711, F.S.; providing definitions; amending s. 627.776, F.S.; providing for the application of the Insurance Code to title insurers; amending s. 627.777, F.S.; requiring the approval of title insurance forms by the department; amending s. 627.7773, F.S.; providing for accountings and audits of forms used by title insurance agents; amending s. 627.7776, F.S.; prohibiting the furnishing of supplies; providing a penalty; amending s. 627.778, F.S.; providing certain limitations on assumption of risk by title insurers; amending s. 627.780, F.S.; prohibiting certain illegal dealings in risk premiums; amending s. 627.782, F.S.; requiring the department to adopt minimum rates for title services; providing requirements for the department in adopting premium rates; amending s. 627.783, F.S.; providing for deviations in rates for title insurance upon order of the department; creating s. 627.7831, F.S.; requiring charging and collection of the risk premium; amending s. 627.784, F.S.; prohibiting the issuance of title insurance with disregard to possible title defects; amending s. 627.7841, F.S.; providing requirements for insurance against adverse matters and defects in title; amending s. 627.7842, F.S.; providing for certain exceptions from coverage in title insurance policies; creating s. 627.7843, F.S.; providing requirements for ownership and encumbrance reports; amending s. 627.7845, F.S.; providing requirements for title searches; providing requirements for maintaining records pertaining to title searches, risk premiums, and service charges; amending s. 627.785, F.S.; preempting to the state the regulation of title insurers and title insurance; amending s. 627.786, F.S.; prohibiting the transaction of title insurance and other kinds of insurance; amending s. 627.7865, F.S.; providing for payment of unpaid outstanding claims through insurer assessments; amending s.

627.791, F.S.; providing penalties; amending s. 627.792, F.S.; providing for liability in the event of defalcation, conversion, or misappropriation of funds held in trust by a title insurance agent; creating s. 627.4236, F.S.; providing requirements for the coverage of bone marrow transplants; requiring the Secretary of Health and Rehabilitative Services to appoint an advisory panel to recommend rules; providing for an administrative review of a decision by an insurer to refuse authorization for a bone marrow transplant; creating s. 627.4238, F.S., relating to cancellation, nonrenewal, and nonissuance of policies or excluding benefits based upon diagnosis of fibrocystic condition; creating s. 627.6407, F.S.; requiring health insurance policies that provide coverage for massage to also cover the services of persons licensed to practice massages; amending s. 627.6515, F.S.; providing requirements for group health insurance policies issued or delivered outside the state; amending s. 627.6575, F.S.; providing clarification for prospective charges; creating s. 627.6619, F.S.; requiring group health insurance policies that provide coverage for massage to also cover the services of persons licensed to practice massages; amending s. 627.6675, F.S.; revising requirements for conversion policies; deleting provisions requiring retroactive application; amending s. 627.668, F.S.; providing requirements for optional coverage for mental and nervous disorders; providing for certain limitations of benefits; providing for the confidentiality of certain patient records submitted to an insurer; repealing s. 627.781, F.S., relating to the definition of the term “risk premium”; amending s. 627.727, F.S.; providing coverage limitations for bodily injury under uninsured motorist insurance; expanding definition of “uninsured motor vehicle”; revising provisions with respect to subrogation rights of underinsured motorist insurers; specifying damages recoverable from an uninsured motorist carrier; providing legislative intent; amending s. 627.736, F.S.; requiring reports from physicians licensed under the same chapter as the treating physician; revising provisions of s. 634.045, F.S., of part V, ch. 626, F.S., and of ch. 627, F.S., notwithstanding repeals scheduled under the Regulatory Sunset Act; providing effective dates.

—was read the second time by title.

Senator Childers moved the following amendment:

Amendment 1 (with Title Amendment)—On page 6, line 7, strike everything after the enacting clause and insert:

Section 1. Section 213.05, Florida Statutes, is amended to read:

213.05 Department of Revenue; control and administration of revenue laws.—The Department of Revenue shall have only those responsibilities for ad valorem taxation specified to the department in chapter 192, taxation, general provisions; chapter 193, assessments; chapter 194, administrative and judicial review of property taxes; chapter 195, property assessment administration and finance; chapter 196, exemption; chapter 197, tax collections, sales, and liens; chapter 199, intangible personal property taxes; and chapter 200, determination of millage. The Department of Revenue shall have the responsibility of regulating, controlling, and administering all revenue laws and performing all duties as provided in s. 125.0104, the Local Option Tourist Development Act; s. 125.0108, tourist impact tax; chapter 198, estate taxes; chapter 201, excise tax on documents; chapter 203, gross receipts taxes; chapter 206, motor and other fuel taxes; chapter 211, tax on production of oil and gas and severance of solid minerals; chapter 212, tax on sales, use, and other transactions; chapter 220, income tax code; chapter 221, emergency excise tax; ss. 336.021, 336.025, and 336.026, taxes on motor fuel and special fuel; s. 370.07(3), Apalachicola Bay oyster surcharge; s. 376.11, pollutant spill prevention and control; s. 403.718, waste tire fees; s. 403.7185, lead-acid battery fees; s. 403.7195, waste newsprint disposal fees; s. 538.09, registration of secondhand dealers; s. 538.25, registration of secondary metals recyclers; s. 440.57, group self-insurer’s fund premium tax; s. 624.5091, retaliatory tax; s. 624.4425, multiple-employer welfare arrangement premium tax; s. 624.475, commercial self-insurance fund premium tax; ss. 624.509-624.514, insurance code: administration and general provisions; s. 624.515, State Fire Marshal regulatory assessment; ~~s. 627.356, professional liability self-insurance premium tax~~; s. 627.357, medical malpractice self-insurance premium tax; s. 629.5011, reciprocal insurers premium tax; s. 637.406, dental service plan corporation premium tax; s. 651.027, continuing care contract entrance fees; and s. 681.117, motor vehicle warranty enforcement.

Section 2. Section 337.106, Florida Statutes, as amended by section 119 of chapter 92-152, Laws of Florida, is amended to read:

337.106 Professional service providers; requirement for professional liability insurance.—Except for any person or firm providing professional

services of a research or training nature, any person or firm rendering legal, architectural, engineering, or other professional services to the department shall have and maintain during the period the services are rendered a professional liability insurance policy or policies with a company or companies authorized to do business in the state, ~~or, if such person or firm is a member of a group or association qualified to self-insure under the provisions of s. 627.356, a self-insurance program provided through establishment of a Professional Liability Risk Management Trust Fund pursuant to s. 627.356,~~ affording professional liability coverage for the professional services rendered, in an amount deemed sufficient by the department. The requirement for professional liability insurance set forth in this section may be waived by the department, if the person or firm providing professional services obtains and maintains an unexpired, irrevocable letter of credit, established pursuant to chapter 675, in an amount not less than the minimum insurance coverage required by the contract with the department. The letter of credit shall be solely for the benefit of the department and must remain valid until 3 years after final acceptance of the project of which the professional services were a part. The letter of credit shall be approved by the department comptroller and be payable to the department as beneficiary upon presentment of a final judgment indicating liability and awarding damages to be paid to the department by the professional service provider or upon presentment of a settlement agreement signed by all parties. The letter of credit shall be nonassignable and nontransferable. The letter of credit shall be issued by any bank or savings association organized and existing under the laws of this state or any bank or savings association organized under the laws of the United States that has its principal place of business in this state or has a branch office which is authorized under the laws of this state or of the United States to receive deposits in this state.

Section 3. Paragraph (a) of subsection (2) and subsection (3) of section 624.462, Florida Statutes, are amended to read:

624.462 Commercial self-insurance funds.—

(2) As used in ss. 624.460-624.488, "commercial self-insurance fund" or "fund" means a group of members, operating individually and collectively through a trust or corporation, that must be:

(a) Established by:

1. A not-for-profit trade association, industry association, or professional association of employers or professionals which has a constitution or bylaws, which is incorporated under the laws of this state, and which has been organized for purposes other than that of obtaining or providing insurance and operated in good faith for a continuous period of 1 year;

2. A self-insurance trust fund organized pursuant to ~~s. 627.356 or s. 627.357~~ and maintained in good faith for a continuous period of 1 year for purposes other than that of obtaining or providing insurance pursuant to this section. Each member of a commercial self-insurance trust fund established pursuant to this subsection must maintain membership in the self-insurance trust fund organized pursuant to ~~s. 627.356 or s. 627.357~~; or

3. A not-for-profit group comprised of no less than 10 condominium associations as defined in s. 718.103(2), which is incorporated under the laws of this state, which restricts its membership to condominium associations only, and which has been organized and maintained in good faith for a continuous period of 1 year for purposes other than that of obtaining or providing insurance.

(3) Each member of a commercial self-insurance trust fund established pursuant to this section must maintain membership in the association or self-insurance trust fund established under ~~s. 627.356 or s. 627.357~~. Membership in a not-for-profit trade association, industry association, or professional association of employers or professionals for the purpose of obtaining or providing insurance shall be in accordance with the constitution or bylaws of the association, and the dues, fees, or other costs of membership shall not be different for members obtaining insurance from the commercial self-insurance fund. The association shall not be liable for any actions of the fund nor shall it have any responsibility for establishing or enforcing any policy of the commercial self-insurance fund. Fees, services, and other aspects of the relationship between the association and the fund shall be subject to contractual agreement.

Section 4. Subsection (3) of section 624.5092, Florida Statutes, is amended to read:

624.5092 Administration of taxes; payments.—

(3) This section is applicable to taxes imposed by s. 624.5091, s. 624.4425, s. 624.475, ss. 624.509-624.515, ~~s. 627.356~~, s. 627.357, s. 629.5011, s. 637.406, s. 651.027, and s. 440.57.

Section 5. Subsection (1) of section 626.022, Florida Statutes, is amended to read:

626.022 Scope of part.—

(1) This part applies as to insurance agents, solicitors, service representatives, adjusters, and insurance agencies; as to any and all kinds of insurance; and as to stock insurers, mutual insurers, reciprocal insurers, and all other types of insurers, except that:

(a) It does not apply as to:

1. ~~Title insurance.~~

2. reinsurance.

(b) The applicability of this chapter as to fraternal benefit societies shall be as provided in chapter 632.

(c) It does not apply to a bail bondsman, as defined in s. 648.25, except as provided in chapter 648 or chapter 903.

Section 6. Section 626.031, Florida Statutes, is amended to read:

626.031 "Agent" defined, in general.—As used in this part, the term "agent" or "insurance agent" means a general lines agent, *title agent*, life agent, or health agent as defined in this chapter or related chapters, or all such agents, as indicated by context.

Section 7. Subsection (7) is added to section 626.241, Florida Statutes, to read:

626.241 Scope of examination.—

(7) *Examinations given applicants for licensure as title agents must cover title insurance, abstracting, title searches, examination of title, closing procedures, and escrow handling.*

Section 8. Paragraph (a) of subsection (3) and subsection (4) of section 626.2815, Florida Statutes, as amended by section 10 of chapter 92-146, Laws of Florida, are amended to read:

626.2815 Continuing education required; application; exceptions; requirements; penalties.—

(3)(a) Beginning with the renewal of appointments in 1993 *or, in the case of title agents, beginning with the renewal of appointments in 1995*, and thereafter, each person subject to the provisions of this section must have completed a minimum of 14 hours of continuing education courses every year or 28 hours of continuing education courses every 2 years in courses prescribed by this section or in other courses approved by the department. Compliance with continuing education requirements is a condition precedent to the renewal of any appointment subject to the provisions of this section. A licensee who has been licensed for 25 years or more and is a CLU or a CPCU, any person who holds a license as a customer representative, solicitor, or motor vehicle physical damage and mechanical breakdown insurance agent, as a crop, hail, and multiple-peril crop insurance agent, or as an industrial fire insurance or burglary insurance agent and who is not a licensed life or health agent, shall be required to complete 7 hours of continuing education courses every year or 14 hours of continuing education courses every 2 years.

(4) The following courses may be completed in order to meet the continuing education course requirements:

(a) Any part of the Life Underwriter Training Council Life Course Curriculum: 28 hours; Health Course: 14 hours.

(b) Any part of the American College "CLU" diploma curriculum: 28 hours.

(c) Any part of the Insurance Institute of America's program in general insurance: 14 hours.

(d) Any part of the American Institute for Property and Liability Underwriters' Chartered Property Casualty Underwriter (CPCU) professional designation program: 28 hours.

(e) Any part of the Certified Insurance Counselor program: 21 hours.

(f) Any part of the Accredited Advisor in Insurance: 21 hours.

(g) *In the case of title agents, completion of the Certified Land Closer (CLC) professional designation program and receipt of the designation: 28 hours.*

(h) *In the case of title agents, completion of the Certified Land Searcher (CLS) professional designation program and receipt of the designation: 28 hours.*

(i)(g) Any insurance-related course which is approved by the department and taught by an accredited college or university per credit hour granted: 14 hours.

(j)(h) Any course developed or sponsored by any authorized insurer or recognized agents' association or insurance trade association or any independent study program of instruction, subject to approval by the department, qualifies for the equivalency of the number of classroom hours assigned thereto by the department. However, unless otherwise provided in this section, continuing education credit may not be given unless the course is provided by classroom instruction or results in a monitored examination.

(k)(i) Each person or entity sponsoring a course for continuing education credit must furnish, within 30 days after completion of the course, in a form satisfactory to the department or its designee, a written and certified roster showing the name and license number of all persons successfully completing such course and requesting credit, accompanied by the required fee.

Section 9. Subsection (5) is added to section 626.331, Florida Statutes, to read:

626.331 Number of appointments permitted or required.—

(5) *A title agent or title agency license must be limited to selling title insurance only for the appointing title insurer or insurers.*

Section 10. Section 626.611, Florida Statutes, as amended by section 14 of chapter 92-146, Laws of Florida, is amended to read:

626.611 Grounds for compulsory refusal, suspension, or revocation of agent's, title agency's, solicitor's, adjuster's, customer representative's, service representative's, managing general agent's, or claims investigator's license or appointment.—The department shall deny an application for, suspend, revoke, or refuse to renew or continue the license or appointment of any applicant, agent, title agency, solicitor, adjuster, customer representative, service representative, managing general agent, or claims investigator, and it shall suspend or revoke the eligibility to hold a license or appointment of any such person, if it finds that as to the applicant, licensee, or appointee any one or more of the following applicable grounds exist:

(1) Lack of one or more of the qualifications for the license or appointment as specified in this code.

(2) Material misstatement, misrepresentation, or fraud in obtaining the license or appointment or in attempting to obtain the license or appointment.

(3) Failure to pass to the satisfaction of the department any examination required under this code.

(4) If the license or appointment is willfully used, or to be used, to circumvent any of the requirements or prohibitions of this code.

(5) Willful misrepresentation of any insurance policy or annuity contract or willful deception with regard to any such policy or contract, done either in person or by any form of dissemination of information or advertising.

(6) If, as an adjuster, claims investigator, or agent licensed and appointed to adjust claims under this code, he has materially misrepresented to an insured or other interested party the terms and coverage of an insurance contract with intent and for the purpose of effecting settlement of claim for loss or damage or benefit under such contract on less favorable terms than those provided in and contemplated by the contract.

(7) Demonstrated lack of fitness or trustworthiness to engage in the business of insurance.

(8) Demonstrated lack of reasonably adequate knowledge and technical competence to engage in the transactions authorized by the license or appointment.

(9) Fraudulent or dishonest practices in the conduct of business under the license or appointment.

(10) Misappropriation, conversion, or unlawful withholding of moneys belonging to insurers or insureds or beneficiaries or to others and received in conduct of business under the license or appointment.

(11) Unlawfully rebating, attempting to unlawfully rebate, or unlawfully dividing or offering to divide his commission with another.

(12) Having obtained or attempted to obtain, or having used or using, a license or appointment as agent or solicitor for the purpose of soliciting or handling "controlled business" as defined in s. 626.730 with respect to general lines agents, s. 626.784 with respect to life agents, and s. 626.830 with respect to health agents.

(13) Willful failure to comply with, or willful violation of, any proper order or rule of the department or willful violation of any provision of this code.

(14) Having been found guilty of or having pleaded guilty or nolo contendere to a felony or a crime punishable by imprisonment of 1 year or more under the law of the United States of America or of any state thereof or under the law of any other country which involves moral turpitude, without regard to whether a judgment of conviction has been entered by the court having jurisdiction of such cases.

(15) Fraudulent or dishonest practice in submitting or aiding or abetting any person in the submission of an application for workers' compensation coverage under chapter 440 containing false or misleading information as to employee payroll or classification for the purpose of avoiding or reducing the amount of premium due for such coverage.

Section 11. Section 626.841, Florida Statutes, is amended to read:

626.841 *Definitions "Title insurance agent" defined.—The term:*

(1) "Title insurance agent" means a person ~~appointed, firm, association, corporation, cooperative, joint stock company, or other legal entity authorized and required in writing by a title insurer to collect premiums; to determine insurability in accordance with underwriting rules and standards prescribed by the title insurer which the agent represents; and to issue and countersign binders, commitments, policies of title insurance, or guarantees of title in its behalf. However, the term "title insurance agent" does not include any person when acting as an agent for a business trust title insurer of which the person is a member.~~

(2) "Title insurance agency" means an insurance agency under which title insurance agents and other employees determine insurability in accordance with underwriting rules and standards prescribed by the title insurer represented by the agency, and issue and countersign binders, commitments of title insurance, endorsements, or guarantees of title, on behalf of the appointing title insurer. The term does not include a title insurer.

Section 12. Section 626.8411, Florida Statutes, is created to read:

626.8411 Application of Insurance Code provisions to title insurance agents or agencies.—

(1) The following provisions of part II, as applicable to general lines agents or agencies, also apply to title insurance agents or agencies:

(a) Section 626.730, relating to purpose of license.

(b) Section 626.734, relating to liability of certain agents.

(c) Section 626.739, relating to temporary licenses.

(d) Section 626.747, relating to branch agencies.

(e) Section 626.749, relating to place of business in residence.

(f) Section 626.753, relating to sharing of commissions.

(g) Section 626.754, relating to rights of agent following termination of appointment.

(2) The following provisions of part I do not apply to title insurance agents or title insurance agencies:

(a) Section 626.112(8), relating to licensing of insurance agencies.

(b) Section 626.231, relating to eligibility for examination.

(c) Section 626.752, relating to exchange of business.

(d) Section 626.592, relating to primary agents.

Section 13. Section 626.8412, Florida Statutes, is created to read:

626.8412 License and appointments required.—

(1) Except as otherwise provided in this part:

(a) Title insurance may be sold only by a licensed title insurance agent employed by a licensed title insurance agency or employed by a title insurer.

(b) A title insurance agent may not sell a title insurance policy issued by an insurer for which the agent does not hold a current appointment.

(2) Except as otherwise provided in this part, a person, other than a title insurance agency or an employee of a title insurance agency, may not perform any of the functions of a title insurance agency without a title insurance agency license.

Section 14. Section 626.8414, Florida Statutes, is created to read:

626.8414 Qualifications for examination.—

(1) The department must authorize any natural person to take the examination for the issuance of a license as a title insurance agent if the person meets all of the following qualifications:

(a) The applicant must be at least 18 years of age.

(b) The applicant must be a bona fide resident of this state. A person meets the residency requirement of this paragraph, notwithstanding the existence at the time of application for license of a license in the applicant's name on the records of another state as a resident licensee of such other state, if the applicant furnishes a letter of clearance satisfactory to the department that the resident licenses have been canceled or changed to a nonresident basis and that the applicant is in good standing.

(c) The applicant must certify that the license is not being sought for the purpose of writing or handling controlled business as described in s. 626.730.

(2) An applicant who has been actively engaged with responsible duties in the title insurance business in this state for 5 consecutive years before the date of application for examination is not required to take an examination for a license if application for licensure is filed with the department no later than March 31, 1993.

Section 15. Section 626.8417, Florida Statutes, is amended to read:

626.8417 Title insurance agent's license; application and qualification; errors and omissions insurance; bond and deposit requirements; exemptions.—

(1) A person ~~may, firm, association, corporation, cooperative, joint-stock company, or other legal entity, or any of his or its employees or officers, shall~~ not act as a title insurance agent as defined in s. 626.841 until a valid title insurance agent's license has been issued to that person ~~or entity~~ by the department.

(2) An application for license as a title insurance agent shall be filed with the department on printed forms furnished by the department.

(3) The department shall not grant or issue a license as title agent to any individual ~~or entity~~ found by it to be untrustworthy or incompetent, ~~who does not meet the qualifications for examination specified in s. 626.8414, or who does or to a corporation or other legal entity, the principals of which are found to be untrustworthy or incompetent, or who do~~ not meet the following qualifications:

(a) *Within the 4 years immediately preceding the date of the application for license, the applicant must have completed a 40-hour classroom course in title insurance, as approved by the department, or must have had at least 12 months of experience in responsible title insurance duties, while working in the title insurance business as a substantially full-time, bona fide employee of a title agency or title insurer. If an applicant's qualifications are based upon the periods of employment at responsible title insurance duties, the applicant must submit with the application for license on a form prescribed by the department, the affidavit of the applicant and of the employer setting forth the period of such employment, that the employment was substantially full time, and giving a brief abstract of the nature of the duties performed by the applicant. If a natural person, is at least 18 years of age.*

(b) *The applicant must have passed any examination for licensure required under s. 626.221. If a natural person, is a bona fide resident of this state or, if the applicant is a corporation or other legal entity, is duly authorized to do business in this state.*

(c) ~~Maintains, or will maintain, a place of business in this state accessible to the public.~~

(d) ~~Must have obtained errors and omissions insurance in an amount acceptable to the insurer appointing the agent, but in no event with an aggregate limit no less than \$250,000 with a deductible no greater than \$10,000. In the event errors and omissions insurance is unavailable generally, then the department shall promulgate rules for alternative methods to comply with this paragraph.~~

(e) ~~Has the training and experience necessary to be such an agent.~~

(f) ~~Must have obtained a fidelity bond in an amount acceptable to the insurer appointing the agent, but in no event in an amount less than \$50,000 notwithstanding any deductibles. In the event a fidelity bond is unavailable generally, then the department shall promulgate rules for alternative methods to comply with this paragraph.~~

(g) ~~Has deposited with the department securities of the type eligible for deposit by insurers under s. 625.52 and having at all times a market value of not less than \$35,000. In lieu of such a deposit, the agent may post a surety bond of like amount payable to the department. The required deposit or bond shall be made by the title insurance agent, and a title insurer shall not provide the deposit or bond directly or indirectly on behalf of a title insurance agent. The deposit or bond shall secure the performance by the agent of his duties and responsibilities under his issuing agency contracts with each underwriter for which he is appointed. The agent shall have the right to exchange or substitute other securities of like quality and value for securities on deposit, to receive the interest and other income accruing on such securities, and to inspect the deposit at all reasonable times. Such deposit or bond shall be maintained unimpaired as long as the agent continues in business in this state and until one year after termination of all title insurance agent appointments held by the agent. The agent shall be entitled to the return of the deposit or bond together with accrued interest after such year has passed, provided that no claim has been made against the deposit or bond. In the event a surety bond is unavailable generally, then the department may promulgate rules for alternative methods to comply with this paragraph. With respect to such alternative methods for compliance, the department shall be guided by the past business performance and good reputation and character of the proposed title insurance agent. A surety bond is deemed to be unavailable generally if the prevailing annual premium exceeds 25 percent of the principal amount of the bond.~~

(4)(a) Title insurers or attorneys duly admitted to practice law in this state and in good standing with The Florida Bar are exempt from the provisions of this chapter part with regard to title insurance licensing and appointment requirements.

(b) *An insurer may designate a corporate officer of the insurer to occasionally issue and countersign binders, commitments, title insurance policies, or guarantees of title. A designated officer is exempt from the provisions of this chapter with regard to title insurance licensing and appointment requirements while the officer is acting within the scope of the designation.*

(c) ~~However,~~ If an attorney or attorneys own a corporation or other legal entity which is doing business as a title insurance agency other than an entity engaged in the active practice of law, the agency must be licensed and appointed as a title insurance agent.

Section 16. Section 626.8418, Florida Statutes, is created to read:

626.8418 Application for title insurance agency license.—Prior to doing business in this state as a title insurance agency, a title insurance agency must meet all of the following requirements:

(1) The applicant must file with the department an application for a license as a title insurance agency, on printed forms furnished by the department, that includes all of the following:

(a) The name of each majority owner, partner, officer, and director of the agency.

(b) The residence address of each person required to be listed under paragraph (a).

- (c) The name of the agency and its principal business address.
- (d) The location of each agency office and the name under which each agency office conducts or will conduct business.
- (e) The name of each agent to be in full-time charge of an agency office and specification of which office.
- (f) Such additional information as the department requires by rule to ascertain the trustworthiness and competence of persons required to be listed on the application and to ascertain that such persons meet the requirements of this code.

(2) The applicant must have deposited with the department securities of the type eligible for deposit under s. 625.52 and having at all times a market value of not less than \$35,000. In place of such deposit, the agency may post a surety bond of like amount payable to the damaged insurer making claim on the bond. The required deposit or bond must be made by the title insurance agency, and a title insurer may not provide the deposit or bond directly or indirectly on behalf of the title insurance agency. The deposit or bond must secure the performance by the agency of its duties and responsibilities under the issuing agency contracts with each underwriter for which it is appointed. The agency may exchange or substitute other securities of like quality and value for securities on deposit, may receive the interest and other income accruing on such securities, and may inspect the deposit at all reasonable times. Such deposit or bond must remain unimpaired as long as the agency continues in business in this state and until 1 year after termination of all title insurance agency licenses held by the agency. The agency is entitled to the return of the deposit or bond together with accrued interest after such year has passed, if no claim has been made against the deposit or bond. If a surety bond is unavailable generally, the department may adopt rules for alternative methods to comply with this paragraph. With respect to such alternative methods for compliance, the department must be guided by the past business performance and good reputation and character of the proposed title insurance agency. A surety bond is deemed to be unavailable generally if the prevailing annual premium exceeds 25 percent of the principal amount of the bond.

Section 17. Section 626.8419, Florida Statutes, is created to read:

626.8419 Appointment of title insurance agency.—

(1) The title insurer engaging or employing the title insurance agency must file with the department, on printed forms furnished by the department, an application certifying that the proposed title insurance agency meets all of the following requirements:

(a) The agency must have obtained a fidelity bond in an amount, not less than \$50,000, acceptable to the insurer appointing the agency. If a fidelity bond is unavailable generally, the department must adopt rules for alternative methods to comply with this paragraph.

(b) The agency must have obtained errors and omissions insurance in an amount acceptable to the insurer appointing the agency. The amount of the coverage may not be less than \$250,000 per claim and an aggregate limit with a deductible no greater than \$10,000. If errors and omissions insurance is unavailable generally, the department must adopt rules for alternative methods to comply with this paragraph.

(2) This section does not exempt title insurance agents from the appointment requirements of part I.

Section 18. Section 627.0613, Florida Statutes, is created to read:

627.0613 Consumer advocate.—The Insurance Commissioner must appoint a consumer advocate who must represent the general public of the state before the department. The consumer advocate must report directly to the Insurance Commissioner, but is not otherwise under the authority of the department or of any employee of the department. The consumer advocate has such powers as are necessary to carry out the duties of the office of consumer advocate, including, but not limited to, the powers to:

(1) Recommend to the department, by petition, the commencement of any proceeding or action; to appear in any proceeding or action before the department; or to appear in any proceeding before the Division of Administrative Hearings relating to subject matter under the jurisdiction of the department.

(2) Have access to and use of all files, records, and data of the department.

(3) Examine rate and form filings submitted to the department, hire consultants as necessary to aid in the review process, and recommend to the department any position deemed by the consumer advocate to be in the public interest.

(4) Prepare an annual budget for presentation to the Legislature by the department, which budget must be adequate to carry out the duties of the office of consumer advocate.

Section 19. Subsections (3) and (4) of section 627.062, Florida Statutes, are amended to read:

627.062 Rate standards.—

(3)(a) For individual risks that are not rated in accordance with the insurer's rates, rating schedules, rating manuals, and underwriting rules filed with the department and which have been submitted to the insurer for individual rating, the insurer *shall maintain documentation on each risk subject to individual risk rating. The documentation shall consist of the identification of the named insured, along with characteristics and classification of the risk supporting the reason for the risk being individually risk rated, including any modifications to existing approved forms to be used on the risk. The insurer must maintain these records for a period of no less than 5 years after the effective date of the policy.*

(b) *Individual risk rates and modifications to existing approved forms are not subject to this part or part II, except for paragraph (a) and ss. 627.402, 627.403, 627.4035, 627.404, 627.405, 627.406, 627.407, 627.4085, 627.409, 627.4132, 627.4133, 627.415, 627.416, 627.417, 627.419, 627.425, 627.426, 627.4265, 627.427, and 627.428, but are subject to all other applicable provisions of this code and rules adopted thereunder. is required to file rates with the department for each such risk as soon as practicable following the effective date of the policy but in no event later than 90 days thereafter.*

(c) *This subsection does not apply to private passenger motor vehicle insurance.*

(4) ~~The establishment of Nothing contained in this section or elsewhere in this part shall be construed to repeal or modify the provisions of ss. 626.951, 626.9511, 626.9521, 626.9541, 626.9551, 626.9561, 626.9571, 626.9581, 626.9591, 626.9601, 626.9611, 626.9621, 626.9631, 626.9641, 626.9701, 626.9702, and 626.973, relating to unfair insurance trade practices; and any rate, rating classification, rating plan or schedule, or variation thereof established in violation of part X of chapter 626 is also said sections shall, in addition to the consequences stated in said sections or elsewhere, be deemed a violation of this section.~~

Section 20. Section 627.0645, Florida Statutes, is amended to read:

627.0645 Annual filings.—

(1)(a) Each rating organization filing rates for, and each insurer writing, any line of property or casualty insurance to which this part applies, except:

(a) Workers' compensation and employer's liability insurance; ~~or and~~

(b) Commercial property and casualty insurance as defined in s. 627.0625(1) other than commercial multiple line and commercial motor vehicle automobile,

shall make an annual base rate filing for each such line with the department no later than 12 months after its previous base rate filing, demonstrating that its rates are not inadequate.

(2)(a) Deviations filed by an insurer to any rating organization's base rate filing ~~are shall~~ not be subject to this section.

(b) The department, after receiving a request to be exempted from the provisions of this section, may, for good cause due to insignificant numbers of policies in force or insignificant premium volume, exempt a company, by line of coverage, from filing rates or rate certification as required by this section.

(3)(b) ~~The filing requirements of required by~~ this section shall be satisfied by one of the following methods:

(a) ~~A rate filing prepared by an actuary which contains documentation demonstrating that the proposed rates are not excessive, inadequate, or unfairly discriminatory pursuant to the applicable rating laws and pursuant to rules of promulgated by the department.~~

(b)2. If no rate change is proposed, a filing which consists of a certification by an actuary that the existing rate level produces rates which are actuarially sound and which are not inadequate, as defined in s. 627.062 or s. 627.0651, whichever is applicable.

(4)(e) An insurer may satisfy the annual filing requirements of this section subsection by being a member or subscriber of a licensed rating organization which complies with the requirements of this section.

(5)(d) If an insurer does not employ or otherwise retain the services of an actuary, the insurer's rate filing or certification that rates are actuarially sound shall be prepared by insurer company personnel or consultants with a minimum of 5 years' experience in insurance ratemaking. A rate filing or certification prepared by a consultant must be reviewed and signed by an employee of the insurer who is authorized to approve rate filings. The chief executive officer of the insurer shall review and sign the rate filing or certification indicating his agreement with its conclusions.

(6)(e) If at the time a filing is required under this section an insurer is in the process of completing a rate review, the insurer may apply to the department for an extension of up to an additional 30 days in which to make the filing. The request for extension must be received by the department in its offices in Tallahassee no later than the date the filing is due.

(7)(f) Nothing in this section limits subsection shall be deemed to limit the department's authority to review rates at any time or to find that a rate or rate change is excessive, inadequate, or unfairly discriminatory pursuant to the provisions of s. 627.062 or s. 627.0651.

(8)(g) As used in this section, the term "actuary" means an individual who is a member of the Casualty Actuarial Society.

(9)(h) If an insurer fails to meet the filing requirements of this section and does not submit the filing within 60 days after following the date the filing is due, the department may, in addition to any other penalty authorized by law, order the insurer to discontinue the issuance of policies for the line of insurance for which the required filing was not made until such time as the department determines that the required filing is properly submitted.

(2) The first filing required by this section may be made on or after October 1, 1989, but in no event later than March 1, 1990, or 14 months after the date of its last base rate filing preceding October 1, 1989, whichever is later.

Section 21. Section 627.0652, Florida Statutes, is amended to read:

627.0652 Insurance discounts for certain persons completing safety course.—

(1) Any rates, rating schedules, or rating manuals for the liability, personal injury protection, and collision coverages of a motor vehicle insurance policy filed with the department shall provide for an appropriate reduction in premium charges as to such coverages when the principal operator on the covered vehicle is an insured 55 years of age or older who has successfully completed a motor vehicle accident prevention course approved by the Department of Highway Safety and Motor Vehicles. Any discount used by an insurer is shall be presumed to be appropriate unless credible data demonstrates otherwise.

(2) The premium reduction required by this section shall be effective for an insured for a 3-year period after successful completion of the approved course, except that the insurer may require, as a condition of maintaining the discount, that the insured:

(a) Not be involved in an accident for which the insured is at fault; and

(b) Not be convicted of or plead guilty or nolo contendere to a moving traffic violation.

(3) The Department of Highway Safety and Motor Vehicles shall approve motor vehicle accident prevention courses for the purposes of this section. The Department of Highway Safety and Motor Vehicles shall consider the competency of the personnel offering the course, the quality of the content and activities of the course with respect to its capability to prevent accidents by persons age 55 or older who complete the course, and the reasonableness of the fee for the course. The Department of Highway Safety and Motor Vehicles shall establish the minimum number of hours necessary for completion of a course. A course approved

by the Department of Highway Safety and Motor Vehicles shall require each person completing the course to pass a written test given by the course evaluating the person's knowledge of the content of the course.

(4) The organization offering the course shall, upon a person's successful completion of the course, issue the person a certificate that the person may use. Upon successfully completing the approved course, each person shall be issued a certificate by the organization offering the course which shall be used to qualify for the premium discount required by this section.

(5) This section does shall not apply if in the event that the approved course is taken as punishment specified by a court or other governmental entity resulting from a moving traffic violation.

(6) This section shall apply to policies issued or renewed after December 31, 1988.

Section 22. Section 627.0653, Florida Statutes, is amended to read:

627.0653 Insurance discounts for specified motor vehicle equipment.—

(1) Any rates, rating schedules, or rating manuals for the liability, personal injury protection, and collision coverages of a motor vehicle insurance policy filed with the department shall provide a premium discount if the insured vehicle is equipped with factory-installed, four-wheel antilock brakes.

(2) Each insurer writing motor vehicle comprehensive coverage in this state shall include in its rating manual discount provisions for comprehensive coverage which specifically relate to an antitheft device or vehicle recovery system utilized in the insured vehicle which are factory installed or approved by the department. The department shall adopt, by rule, procedures under which manufacturers, distributors, or sellers may apply to the department for approval of non-factory-installed devices under this subsection. The rules must include, at a minimum, the test results that must accompany the application and the standards for approval.

(3) Any rates, rating schedules, or rating manuals for personal injury protection coverage and medical payments coverage, if offered, of a motor vehicle insurance policy filed with the department shall provide a premium discount if the insured vehicle is equipped with one or more air bags which are factory installed.

(4) The removal of a discount or credit does not constitute the imposition of, or request for, additional premium or a surcharge if the basis for the discount or credit no longer exists or is substantially eliminated.

Section 23. Section 627.162, Florida Statutes, is amended to read:

627.162 Requirements for premium installments; delinquency, collection, and check return charges; attorney's fees.—

(1) Insurers providing workers' compensation coverage under chapter 440 shall provide, upon request of the employer, policies providing for the payment of premiums by installment for policies with annual premiums exceeding \$1,000.

(2) Insurers providing workers' compensation coverage under chapter 440 may charge the insured a delinquency and collection fee on each installment in default for a period of not less than 5 days in an amount not to exceed \$10 or 5 percent of the delinquent installment, whichever is greater. Only one such delinquency and collection fee may be collected on any such installment regardless of the period during which it remains in default.

(3) If an installment in default under this section is referred for collection to an attorney, the insured is liable for the payment of attorney's fees not exceeding 25 percent of the sum of the installment and any delinquency and collection fee charged by the insurer.

(4) Notwithstanding other provisions of this section, an insurer may not take or receive from or charge an insured any collection fee or attorney's fee unless the insurer has mailed a notice of the default to the insured at his address as shown on the records of the insurer, giving the insured at least 5 days within which to make the payment in default. A notice of cancellation sent by the insurer to the insured in accordance with s. 440.42 is legally sufficient notice of the default for purposes of this section.

(5) *If a payment is made to an insurer by check or draft and the instrument is returned because of insufficient funds, the insurer may impose a charge of \$20 or 5 percent of the check amount, whichever is greater.*

(6) *The term "insurer," for purposes of this section, includes a commercial self-insurance fund as defined in s. 624.462, and assessable mutual insurer as defined in s. 628.6011, and a group self-insurer's fund, as defined in s. 400.57.*

Section 24. Subsections (3) and (4) of section 627.311, Florida Statutes, are amended to read:

627.311 Joint underwriters and joint reinsurers.—

(3) The department may, after consultation with insurers licensed to write automobile insurance in this state, approve a joint underwriting plan for purposes of equitable apportionment or sharing among insurers of automobile liability insurance and other motor vehicle insurance, as an alternate to the plan required in s. 627.351(1). All insurers authorized to write automobile insurance in this state shall subscribe to the plan and participate therein. The plan shall be subject to continuous review by the department which may at any time disapprove the entire plan or any part thereof if it determines that conditions have changed since prior approval and that in view of the purposes of the plan changes are warranted. Any disapproval by the department shall be subject to the provisions of chapter 120. If adopted, the plan:

(a) *Must* ~~shall~~ be subject to all provisions of s. 627.351(1), except apportionment of applicants.;

(b) *May* provide for one or more designated insurers, able and willing to provide policy and claims service, to act on behalf of all other insurers to provide insurance for applicants who are in good faith entitled to, but unable to, procure insurance through the voluntary insurance market at standard rates.;

(c) *Must* ~~shall~~ provide that designated insurers *will* ~~shall~~ issue policies of insurance and provide policyholder and claims service on behalf of all insurers for the joint underwriting association.;

(d) *Must* ~~shall~~ provide for the equitable apportionment among insurers of losses and expenses incurred.;

(e) *Must* ~~shall~~ provide that the joint underwriting association *will* ~~shall~~ operate subject to the supervision and approval of a board of governors consisting of 11 individuals, including 1 who *will* ~~shall~~ be elected as chairman. Five members of the board *must* ~~shall~~ be appointed by the Insurance Commissioner. Two of the commissioner's appointees *must* ~~shall~~ be chosen from the insurance industry. Any board member appointed by the Insurance Commissioner may be removed and replaced by him at any time without cause. Six members of the board *must* ~~shall~~ be appointed by the participating insurers, two of whom *must* ~~shall~~ be from the insurance agents' associations. All board members, including the chairman, *must* ~~shall~~ be appointed to serve for 2-year terms beginning annually on a date designated by the plan. ~~and~~

(f) *Must* ~~shall~~ provide that an agent appointed to a servicing carrier *must* ~~shall~~ be a licensed general lines agent of an insurer which is authorized to write automobile liability and physical damage insurance in the state and which is actively writing such coverage in the county in which the agent is located, or the immediately adjoining counties, or an agent who places a volume of other property and casualty insurance in an amount equal to the premium volume placed with the Florida Joint Underwriting Association. The department may, however, determine that an agent may be appointed to a servicing carrier if, after public hearing, the department finds that consumers in the agent's operating area would not have adequate and reasonable access to the purchase of automobile insurance if the agent were not appointed to a servicing carrier.

(g) *Must* ~~shall~~ make available noncancellable coverage as provided in s. 627.7275(2).

(h) *Must* provide for the furnishing of a list of insureds and their mailing addresses upon the request of a member of the association or an insurance agent licensed to place business with an association member. The list must indicate whether the insured is currently receiving a good driver discount from the association. The plan may charge a reasonable fee to cover the cost incurred in providing the list.

(i) *Must not* provide a renewal credit or discount or any other inducement designed to retain a risk.

(j) *Must not* provide any other good driver credit or discount that is not actuarially sound. In addition to other criteria that the plan may specify, to be eligible for a good driver credit, an insured must not have any criminal traffic violations within the most recent 36-month period preceding the date the discount is received.

(4)(a) The department may, after consultation with insurers licensed to write workers' compensation and employer's liability insurances in this state, approve a joint underwriting plan for the purpose of equitable apportionment or sharing of workers' compensation and employer's liability insurances among insurers. The plan shall operate subject to the supervision of a board of governors, to be named by the Insurance Commissioner, the members of which shall serve for terms of 2 years, consisting of three insurers participating in the plan, three employers, and one producing agent for the plan. The minutes, audits, and procedures of the board of governors shall be subject to chapter 119. The plan of operation of the joint underwriting plan shall be prepared by the board of governors and shall be subject to approval by the Insurance Commissioner. In addition, the Insurance Commissioner shall review the plan of operation on an ongoing basis. The plan shall be subject to revision at the request of the Insurance Commissioner at any time. The board of governors shall designate one or more servicing carriers for the plan from the ranks of those insurers participating in the plan. Any such designation shall be subject to the approval of the Insurance Commissioner, and any such designation may be rescinded for cause by the board subject to the approval of the Insurance Commissioner or by the Insurance Commissioner if deemed appropriate in the exercise of his judgment. The plan shall take such actions as will, in the judgment of the board, encourage safety among its insureds. It shall annually report to the Department of Insurance and to the Legislature on those actions taken by it in this regard. It shall employ full-time safety consultants or engineers who will be available to advise insureds who may from time to time seek advice regarding safety procedures and to advise such insureds as may demonstrate an unreasonably high frequency of worker accidents. Each designated servicing carrier shall provide as a condition for such designation sufficient personnel to provide support for such safety management subject to coordination by the chief safety manager of the plan. In addition, each designated servicing carrier shall provide personnel for claims adjustment so as to avoid undue costs due to unjust or improper claims against the plan. Such personnel shall be responsive to the requirements and policy dictates of the board of governors subject to approval by the Insurance Commissioner. In the event that no insurer is willing or able in the judgment of the Insurance Commissioner to act as a servicing carrier for the plan, then the board shall have the power to designate a manager and such staff as may in its judgment be necessary in addition to the chief safety manager and related staff to operate the plan. Designated servicing carriers shall provide policy and claims service on behalf of all other insurers participating in the plan in order to provide workers' compensation and employer's liability insurances for applicants who are in good faith entitled to but who are unable to purchase workers' compensation and employer's liability insurances through the voluntary insurance market at standard rates. Such plan shall provide that the designated insurers shall issue policies of insurance and provide policyholder and claims service on behalf of all insurers for the Joint Underwriting Association. The plan shall provide for the equitable apportionment among insurers of losses and expenses incurred. The plan is authorized to pay a commission to producing agents not to exceed 5 percent of the total premium. If the plan is adopted, all insurers authorized to write workers' compensation and employer's liability insurances in this state shall subscribe thereto and participate therein. The plan shall be operated as a nonprofit venture. The plan shall be divided into two subplans as follows:

1. Subplan "A" shall provide coverage for insureds who have a demonstrated accident frequency problem, who have a measurably adverse loss ratio over a period of years, or who have demonstrated an attitude of non-compliance with safety requirements.

2. Subplan "B" shall provide coverage for all other insureds of the joint underwriting plan.

The methodology of applying these criteria, which shall be used to determine into which subplan an insured shall be placed, shall be determined by the Insurance Commissioner, and such methodology shall be applied regardless of the number of employees or the amount of payroll of the insured. The board of governors shall establish a system of surcharges applicable to insureds covered under subplan A, subject to approval by

the Insurance Commissioner. A system of surcharges applicable to insureds covered under subplan B shall not be established. Retrospective evaluation of premiums and loss and expense experience of insureds within either subplan, as well as retrospective evaluation of premiums, losses, and expense experience of each subplan, shall be performed by the board of governors according to methodology submitted by the board to, and approved by, the Insurance Commissioner. If the board of governors determines by such retrospective evaluation of a subplan that a return of a portion of premiums is in order, then such a return shall be accomplished within such subplan subject to the approval of the Insurance Commissioner.

(b) No later than 45 days prior to the expiration date of an insured's policy year, the insured shall be advised by the insurer that he may be continued in or assigned to the joint underwriting plan and advised that such assignment will require an additional cost or premium. The insured shall be advised that, if he desires, his name will be filed publicly with the Department of Insurance to enable insurance providers the opportunity to offer coverage outside the plan. If the insured agrees, his name, company name, mailing address, telephone number, and the names of his insurer and agent shall be placed on file no later than 25 days prior to the policy expiration date with the Department of Insurance. Any policy subsequently written as a result of the provisions of this paragraph shall be subject to s. 626.752.

~~(e) Effective July 1, 1981, self-insurers as defined in s. 440.02(21)(a) and (e) shall participate in the equitable apportionment among insurers of losses and loss adjustment expenses incurred by the plan with credit for investment income. Expenses shall be limited to actual expenses incurred by the plan. However, this paragraph shall not apply to governmental entities which are self-insurers under s. 440.38(6) or s. 440.57 or public utilities who are self-insurers under s. 440.38(1)(b). Self-insurers participating in the plan shall be deemed to be insurers for the purposes of this subsection. When the provisions of this paragraph become effective, two individual self-insurers participating in the plan and authorized under s. 440.38(1)(b) and two group self-insurers participating in the plan and authorized under s. 440.57 shall be added to the board of governors as named by the Insurance Commissioner.~~

Section 25. Section 627.3515, Florida Statutes, is amended to read:

627.3515 Market assistance plan; property and casualty risks.—

~~(1) On or before October 1, 1986, the department shall, After consultation with the property and casualty insurers licensed in this state, the department shall adopt a market assistance plan to assist in the placement of risks of applicants who are unable to procure property insurance as defined in s. 624.604 or casualty insurance as defined in s. 624.605(1)(b), (e), (f), (g), or (h) from authorized insurers when such insurance is otherwise generally available from insurers authorized to transact and actually writing that kind and class of insurance in this state. All property and casualty insurers licensed in this state shall participate in the plan.~~

~~(2)(a) The market assistance plan shall be governed by the same board of governors appointed pursuant to s. 627.351(4)(5).~~

~~(b) The plan shall be funded and staffed by the participating insurers.~~

~~(c) The plan is not shall not be required to assist in the placement of any workers' compensation, employer's liability, malpractice, or motor vehicle insurance coverage.~~

~~(d) Any fee charged by the plan shall be for a reasonable amount approved by the department and is shall be earned only upon the successful placement of the risk.~~

~~(3) The board of governors shall appoint a committee which is hereby authorized to meet as necessary for the purpose of discussing the placement of risks, pricing of insurance, proportional sharing of risk by participating insurers, and any other matters designed to facilitate the success of the market assistance plan.~~

Section 26. Section 627.357, Florida Statutes, is amended to read:

627.357 Medical malpractice self-insurance.—

~~(1) DEFINITIONS.—As used in The following definitions apply in the interpretation and enforcement of this section, the term:~~

~~(a) The term "Fund" means a group or association of health care providers, as defined in paragraph (b), authorized to self-insure.~~

~~(b) The term "Health care provider" means any:~~

- ~~1. Hospital licensed under chapter 395.~~
- ~~2. Physician licensed, or physician assistant certified, under chapter 458.~~
- ~~3. Osteopath licensed under chapter 459.~~
- ~~4. Podiatrist licensed under chapter 461.~~
- ~~5. Health maintenance organization certificated under part I of chapter 641.~~
- ~~6. Ambulatory surgical center licensed under chapter 395.~~
- ~~7. Chiropractor licensed under chapter 460.~~
- ~~8. Psychologist licensed under chapter 490.~~
- ~~9. Optometrist licensed under chapter 463.~~
- ~~10. Dentist licensed under chapter 466.~~
- ~~11. Pharmacist licensed under chapter 465.~~
- ~~12. Registered nurse, licensed practical nurse, or and advanced registered nurse practitioner licensed or registered under the provisions of chapter 464.~~
- ~~13. "Other medical facility" as defined in paragraph (c).~~
- ~~14. Professional association, partnership, corporation, joint venture, or other association established by the individuals set forth in subparagraphs 2., 3., 4., 7., 8., 9., 10., 11., and 12. for professional activity.~~

~~(c) The term "Other medical facility" means a facility the primary purpose of which is to provide human medical diagnostic services or a facility providing nonsurgical human medical treatment and in which the patient is admitted to and discharged from such facility within the same working day, and which is not part of a hospital. The term does not include However, a facility existing for the primary purpose of performing terminations of pregnancies or an office maintained by a physician or dentist for the practice of medicine shall not be construed to be an other medical facility.~~

~~(d) The term "Hospital subsidiary corporation" means any corporation over which a hospital or the hospital's parent corporation exercises financial or operational control and which provides health care services to the hospital or the hospital parent corporation or another hospital subsidiary corporation.~~

~~(e) The term "Hospital parent corporation" means any corporation which has financial or operational control over a hospital and which provides health care services to the hospital or another hospital subsidiary corporation.~~

~~(f) The term "Committee" means a committee or board of trustees of a health care provider or group of health care providers established to make recommendations, policies, or decisions regarding patient institutional utilization, patient treatment, or institutional staff privileges or to perform other administrative or professional purposes or functions.~~

~~(2) A group or association of health care providers as defined in paragraph (1)(b), composed of any number of members, is authorized to self-insure against claims arising out of the rendering of, or failure to render, medical care or services, or against claims for injury or death to the insured's patients arising out of the insured's activities, upon obtaining approval from the department and upon complying with the following conditions:~~

~~(a) Establishment of a Medical Malpractice Risk Management Trust Fund to provide coverage against professional medical malpractice liability.~~

~~(b) Employment of professional consultants for loss prevention and claims management coordination under a risk management program.~~

~~(3) The fund may insure hospital parent corporations, hospital subsidiary corporations, and committees against claims arising out of the rendering of, or failure to render, medical care or services.~~

(4) The fund ~~is shall be~~ subject to regulation and investigation by the department. The fund ~~is shall be~~ subject to *rules of the department and such rules as the department adopts, and shall also be* subject to part X of chapter 626, relating to trade practices and frauds.

(5) The trust fund ~~may is authorized to~~ purchase medical malpractice insurance, specific excess insurance, and aggregate excess insurance, up to determined limits, as necessary to provide the insurance coverages authorized by this section, consistent with market availability. The trust fund ~~may is further authorized to~~ purchase such risk management services as may be required, ~~and to~~ pay claims as may arise under any deductible provisions, and to engage in prudent investment of trust funds and other activities reasonably relating to the payment of claims and to providing medical malpractice self-insurance, to the extent otherwise consistent with this section and law generally applicable to medical malpractice insurers.

(6) The department shall ~~adopt promulgate~~ rules to implement the ~~provisions of~~ this section, ~~including rules that ensure that a trust fund maintains. The rules shall guarantee the maintenance of a sufficient reserve to cover contingent liabilities under subsection (7) in the event of its the dissolution of any trust fund authorized hereunder so as to cover contingent liabilities.~~

(7)(a) The liability of each member for the obligations of the trust fund ~~is shall be~~ individual, several, and proportionate, but not joint, except as provided in this subsection.

(b) Each member ~~has shall have~~ a contingent assessment liability for payment of actual losses and expenses incurred while ~~the member's his~~ policy was in force.

(c) The trust fund may from time to time assess members of the fund liable therefor under the terms of their policies and pursuant to this section, ~~or~~ The department may assess the members in the event of liquidation of the fund.

(d) A ~~Each~~ member's share of a deficiency for which an assessment is made ~~is shall be~~ computed by applying to the premium earned on the member's policy or policies during the period to be covered by the assessment the ratio of the total deficiency to the total premiums earned during such period upon all policies subject to the assessment. ~~If in the event one or more members fail to pay an assessment, the other members are liable on a proportionate basis for an additional assessment. The fund, acting on behalf of all members who paid the additional assessment, shall institute legal action, when necessary and appropriate, to recover the assessment from members who failed to pay it.~~

(e) In computing the earned premiums for the purposes of this section, the gross premium received by the fund for the policy shall be used as a base, deducting therefrom solely charges not recurring upon the renewal or extension of the policy.

(f) No member ~~has shall have~~ an offset against any assessment for which ~~the member he~~ is liable, on account of any claim for unearned premium of losses payable.

(g) If the assets of a trust fund are at any time insufficient to comply with the requirements of law, ~~or to discharge the fund's its liabilities, or and to~~ meet the required conditions of financial soundness, or if a judgment against the fund has remained unsatisfied for 30 days, the trust fund ~~must immediately shall forthwith~~ make up the deficiency or levy an assessment upon the members for the amount needed to make up the deficiency, ~~but subject to the limitations limitation~~ set forth in this subsection.

(h) If the trust fund fails to make an assessment as required by paragraph (g), the department shall order the fund to do so. If the deficiency is not sufficiently made up within 60 days after the date of the order, the fund ~~is shall be~~ deemed insolvent and grounds ~~shall exist~~ to proceed against the fund as provided for in part I of chapter 631.

(i) Subject to the provisions of this section, any rehabilitation, liquidation, conservation, or dissolution of a trust fund shall be conducted under the supervision of the department, which ~~has shall have~~ all power with respect thereto granted to it under part I of chapter 631 governing the rehabilitation, liquidation, conservation, or dissolution of insurers.

(8) The expense factors associated with rates ~~used utilized~~ by a fund shall be filed with the department at least 30 days prior to use and ~~may shall not be used utilized~~ until approved by the department. The depart-

ment shall disapprove the rates unless the filed expense factors associated therewith are justified and reasonable for the benefits and services provided.

(9) Premiums, contributions, and assessments received by a fund are subject to ss. 624.509(1) and (2) and 624.5092, except that the tax rate ~~is shall be~~ 1.6 percent of the gross amount of such premiums, contributions, or assessments; ~~provided, however, for the period July 1, 1989, through December 31, 1989, the tax rate shall be 0.8 percent and for calendar year 1990, the tax rate shall be 1.3 percent.~~

(10) A self-insurance fund may not be formed under this section after October 1, 1992.

Section 27. Section 627.402, Florida Statutes, is amended to read:

627.402 Definitions "Policy" defined; specified certificates not included.—As used in this part, the term:

(1) "Policy" means a written contract of insurance or written agreement for or effecting insurance, or the certificate thereof, by whatever name called, and includes all clauses, riders, endorsements, and papers which are a part thereof.

(2) The word "certificate" as used in this section does not include certificates as to group life or health insurance or as to group annuities issued to individual insureds.

Section 28. Section 627.408, Florida Statutes, is amended to read:

627.408 Application as evidence.—

(1) An ~~No~~ application for the issuance of any life or health insurance policy or annuity contract ~~is not shall be~~ admissible in evidence in ~~an~~ any action relative to the ~~such~~ policy or contract; unless a true copy of the application was attached to or otherwise made a part of the policy or contract when issued.

(2) After reinstatement or renewal of a ~~If any~~ policy of life or health insurance delivered or issued for delivery in this state, ~~is reinstated or renewed, and the insured may, in writing, request from the insurer a copy of the original application, or the application for renewal or reinstatement, if any. The insured or the beneficiary or assignee of a life or health insurance policy may request the application. Within 30 days after receiving the request, the insurer must deliver or mail a legible copy of the application to the person requesting it. If the request is made by a beneficiary, the 30-day period does or the beneficiary or assignee of the policy makes written request to the insurer for a copy of the application, if any, for such reinstatement or renewal, the insurer shall, within 30 days after receipt of such request at its home office or at any of its branch offices, deliver or mail to the person making such request a copy of such application, reproduced by any legible means. In the case of such a request from the beneficiary, the time within which the insurer is required to furnish a copy of such application shall not begin to run until after receipt of evidence satisfactory to the insurer of the beneficiary's vested interest in the policy or contract.~~

Section 29. Section 627.409, Florida Statutes, is amended to read:

627.409 Representations in applications; warranties.—

(1) Any statement or description made by or on behalf of an insured or annuitant in an ~~All statements and descriptions in any~~ application for an insurance policy or annuity contract, or in negotiations for a policy or contract, is a representation and is not a warranty. A misrepresentation, omission, concealment of fact, or incorrect statement may prevent recovery under the contract or policy only if any of the following apply:

(a) The misrepresentation, omission, concealment, or statement is fraudulent or is ~~therefor, by or in behalf of the insured or annuitant, shall be deemed to be representations and not warranties. Misrepresentations, omissions, concealment of facts, and incorrect statements shall not prevent a recovery under the policy or contract unless:~~

(a) They are fraudulent;

(b) They are material either to the acceptance of the risk or to the hazard assumed by the insurer; ~~or~~

(b)(c) If the true facts had been known to the insurer pursuant to a policy requirement or other requirement, the insurer in good faith would ~~either~~ not have issued the policy or contract, would not have issued it at the same premium rate, would not have issued a policy or contract in as

large an amount, or would not have provided coverage with respect to the hazard resulting in the loss, ~~if the true facts had been made known to the insurer as required either by the application for the policy or contract or otherwise.~~

(2) A breach or violation by the insured of any warranty, condition, or provision of any wet marine or transportation insurance policy, contract of insurance, endorsement, or application therefor ~~does shall~~ not render void the policy or contract, or constitute a defense to a loss thereon, unless such breach or violation increased the hazard by any means within the control of the insured.

Section 30. Section 627.4091, Florida Statutes, is created to read:

627.4091 Specific reasons for cancellation or nonrenewal.—

(1) Each notice of nonrenewal or cancellation must be accompanied by the specific reasons for nonrenewal or cancellation, including the specific underwriting reasons, if applicable.

(2) The provisions of this section control to the extent of any conflict with any other section.

Section 31. Paragraph (a) of subsection (8) of section 627.410, Florida Statutes, is amended to read:

627.410 Filing, approval of forms.—

(8)(a) For the purposes of subsections (6) and (7), benefits of an individual accident and health insurance policy form, *including excluding* Medicare supplement policies as defined in s. 627.672, *when authorized by rules adopted by the department, and excluding* long-term care insurance policies as defined in s. 627.9404, and other policy forms under which more than 50 percent of the policies are issued to individuals age 65 and over, are deemed to be reasonable in relation to premium rates if the rates are filed pursuant to a loss ratio guarantee and both the initial rates and the durational and lifetime loss ratios have been approved by the department, and such benefits shall continue to be deemed reasonable for renewal rates while the insurer complies with such guarantee, provided the currently expected lifetime loss ratio is not more than 5 percent less than the filed lifetime loss ratio as certified to by an actuary. The department shall have the right to bring an administrative action should it deem that the lifetime loss ratio will not be met. *For Medicare supplement filings, the department may withdraw a previously approved filing which was made pursuant to a loss ratio guarantee if it determines that the filing is not in compliance with ss. 627.671-627.675 or the currently expected lifetime loss ratio is less than the filed lifetime loss ratio as certified by an actuary in the initial guaranteed loss ratio filing. If this section conflicts with ss. 627.671-627.675, ss. 627.671-627.675 shall control.*

Section 32. Paragraph (b) of subsection (2) of section 627.4106, Florida Statutes, as amended by section 118 of chapter 92-33, Laws of Florida, is amended to read:

627.4106 Small group health insurance; rates; restrictions.—

(2) DEFINITIONS.—As used in this section:

(b) "Carrier" means any person that provides health insurance in this state. "Carrier" includes a licensed insurance company, a health maintenance organization, a multiple-employer welfare arrangement, a fraternal benefit society, or any other person providing a plan of health insurance subject to state insurance regulation; *however, "carrier" does not include a multiple-employer welfare arrangement established by an association of members of the same profession, which multiple-employer welfare arrangement operates solely for the benefit of the members or the members and the employees of such members and was in existence on January 1, 1992.*

Section 33. Section 627.4131, Florida Statutes, is created to read:

627.4131 Telephone number required.—Each insurer issuing a policy subject to this part, or issuing a policy of title insurance, credit life insurance, or credit disability insurance in this state, must make a telephone number available for policyholders and certificateholders to present inquiries or obtain information about coverage and to provide assistance in resolving complaints. The policy or certificate must provide notice of the telephone number and its purposes.

Section 34. Subsection (4) is added to section 627.4133, Florida Statutes, to read:

627.4133 Notice of cancellation, nonrenewal, or renewal premium.—

(4) *Claims on property insurance policies that are the result of an act of God may not be used as a cause for cancellation or nonrenewal, unless the insurer can demonstrate, by claims frequency or otherwise, that the insured has failed to take action reasonable necessary as requested by the insurer to prevent recurrence of damage to the insured property.*

Section 35. Section 627.726, Florida Statutes, is transferred, renumbered as section 627.4135, Florida Statutes, and is amended to read:

~~627.4135 627.726~~ Casualty insurance contracts subject to general provisions for insurance contracts.—All contracts of casualty insurance covering subjects resident, located, or to be performed in this state shall be subject to the applicable provisions of *this part II of this chapter* and to the other applicable provisions of this code.

Section 36. Section 627.7262, Florida Statutes, is transferred and renumbered as section 627.4136, Florida Statutes.

Section 37. Section 627.7264, Florida Statutes, is transferred and renumbered as section 627.4137, Florida Statutes.

Section 38. Section 627.4143, Florida Statutes, is amended to read:

627.4143 Outline of coverage.—

(1) No private passenger automobile or basic homeowner's policy shall be delivered *or issued for delivery* in this state unless an appropriate outline of coverage has been delivered *prior to issuance of the policy or accompanies or shall accompany* the policy when issued.

(2) The outline of coverage shall contain *all of the following*:

(a) ~~A~~ The brief description of the principal benefits and coverage provided in the policy, broken down by each class or type of coverage provided under the policy for which a premium is charged, and itemization of the applicable premium.

(b) A summary statement of the principal exclusions and limitations or reductions contained in the policy by class or type, including, but not limited to, deductibles, coinsurance, and any other limitations or reductions.

(c) A summary statement of any renewal *or and* cancellation provisions.

(d) A description of the credit or surcharge plan that is being applied. The description may ~~display provide~~ numerical or ~~alphabetical alpha~~ codes ~~which shall be displayed~~ on the declarations page or premium notice ~~to enable, in order for the insured to determine the reason or reasons why his policy is being surcharged or is receiving a credit.~~

(e) A list of any additional coverage provided through any rider or endorsement which accompanies the policy. The list shall contain a descriptive reference to each additional coverage, rather than solely a reference to a form or code number.

(f) *For a private passenger motor vehicle insurance policy, the extent of coverage provided to the insured in the event of collision damage to a rental vehicle rented by the insured. The proof-of-insurance card required by s. 316.646 must also specify whether rental car coverage is provided, and may refer to the outline of coverage as to the details or extent of coverage.*

(3) The outline of coverage *is required only on the initial policy issued by an insurer. shall only be required on the initial policy issued by an insurer on or after October 1, 1989, or on the first renewal policy on or after October 1, 1989. The outline of coverage shall not be required on any subsequent renewal unless the renewal modifies the type of coverages, exclusions, limitations, reductions, deductibles, coinsurance, renewal provisions, cancellation provisions, surcharges, or credits contained in the prior policy. The outline of coverage may refer to, and incorporate explanations of, the nature of coverage which has been previously provided to the insured.*

(4) An insurer ~~must~~ *may* insert the following language on the outline of coverage:

"The following outline of coverage is for informational purposes only. Florida law prohibits this outline from changing It is the express intent of s. 627.4143, Florida Statutes, that this outline shall not be construed

to modify any of the provisions of the legal insurance contract which is the subject of this outline. Any endorsement regarding changes in types of coverage, exclusions, limitations, reductions, deductibles, coinsurance, renewal provisions, cancellation provisions, surcharges, or credits will be sent separately."

(5) Neither the provisions of this section nor the outline of coverage mandated by this section alters or modifies ~~shall be construed to alter or modify~~ the terms of the insurance contract, creates ~~to create~~ a cause of action, or is ~~to be~~ admissible in any civil action.

Section 39. Section 627.4234, Florida Statutes, is amended to read:

627.4234 Health insurance cost-containment provisions required.—A No health insurance policy or health care services plan which provides medical, hospital, or surgical expense coverage ~~delivered shall be issued~~ or issued for delivery in this state ~~must contain unless the policy or plan contains~~ one or more of the following procedures or provisions to contain health insurance costs or cost increases:

(1) Coinsurance.

(2) Deductible amounts.

(3) Utilization review.

(4) ~~Required second opinions for elective or nonemergency surgery.~~

(4)(5) Audits of provider bills to verify that services and supplies billed were furnished and that proper charges were made.

(5)(6) Scheduled benefits.

(6)(7) Benefits for preadmission testing.

(7)(8) Any lawful measure or combination of measures for which ~~the insurer provides to the department information demonstrating is provided to the department which demonstrates~~ that the measure or combination of measures is reasonably expected to have an effect toward containing health insurance costs or cost increases.

Section 40. Section 627.4235, Florida Statutes, is amended to read:

627.4235 Coordination of benefits.—

(1) A No group hospital, medical, or surgical expense policy, group health care services plan, or group-type self-insurance plan that provides protection or insurance against hospital, medical, or surgical expenses ~~delivered shall be issued~~ or issued for delivery in this state ~~must contain unless the policy or plan contains~~ a provision for coordinating its benefits with any similar benefits provided by any other group hospital, medical, or surgical expense policy, any; group health care services plan, or any; or group-type self-insurance plan that provides protection or insurance against hospital, medical, or surgical expenses for the same loss.

(2) A No hospital, medical, or surgical expense policy, health care services plan, or self-insurance plan that provides protection or insurance against hospital, medical, or surgical expenses ~~shall be issued in this state~~ or issued for delivery in this state ~~may contain which contains any provision whereby the insurer may reduce or refuse to pay benefits otherwise payable thereunder solely on account of the existence of similar benefits provided under insurance policies issued by the same or another insurer, health care services plan, or self-insurance plan which provides protection or insurance against hospital, medical, or surgical expenses only if unless, as a condition of coordinating benefits with another insurer, the insurers together pay 100 percent of the total reasonable expenses actually incurred of the type of expense within the benefits described in the policies and presented to the insurer for payment.~~

(3) The standards provided in subsection (2) ~~apply to coordination of are applicable in coordinating~~ benefits payable under Medicare, Title XVIII of the Social Security Act.

(4) ~~If When~~ a claim is submitted in accordance with any group hospital, medical, or surgical expense policy, or in accordance with any group health care service plan or group-type self-insurance plan, that provides protection, insurance, or indemnity against hospital, medical, or surgical expenses, and the policy or any other document that provides coverage includes a coordination-of-benefits provision and the claim involves another policy or plan which has a coordination-of-benefits provision, the following rules ~~shall be used to~~ determine the order in which benefits under the respective health policies or plans will be determined:

(a)1. The benefits of a policy or plan which covers the person as an employee, member, or subscriber, other than as a dependent, are determined before those of the policy or plan which covers the person as a dependent.

2. However, if the person is also a Medicare beneficiary, and if the rule established under the Social Security Act of 1965, as amended, makes Medicare secondary to the plan covering the person as a dependent of an active employee, the order of benefit determination is:

a. First, benefits of a plan covering persons as an employee, member, or subscriber.

b. Second, benefits of a plan of an active worker covering persons as a dependent.

c. Third, Medicare benefits.

(b) Except as stated in paragraph (c), if when two or more policies or plans cover the same child as a dependent of different parents:

1. The benefits of the policy or plan of the parent whose birthday, excluding year of birth, falls earlier in a year are determined before ~~the benefits those~~ of the policy or plan of the parent whose birthday, excluding year of birth, falls later in that year; but

2. If both parents have the same birthday, the benefits of the policy or plan which covered the parent for a longer period of time are determined before those of the policy or plan which covered the parent for a shorter period of time.

However, if a policy or plan subject to the rule based on the ~~birthdays~~ birthday of the parents ~~as stated above~~ coordinates with an out-of-state policy or plan which contains provisions under which the benefits of a policy or plan which covers a person as a dependent of a male are determined before those of a policy or plan which covers the person as a dependent of a female and if, as a result, the policies or plans do not agree on the order of benefits, the provisions of the other policy or plan ~~shall~~ determine the order of benefits.

(c) If two or more policies or plans cover a dependent child of divorced or separated parents, benefits for the child are determined in this order:

1. First, the policy or plan of the parent with custody of the child;

2. Second, the policy or plan of the spouse of the parent with custody of the child; ~~and~~

3. Third, the policy or plan of the parent not having custody of the child.

However, if the specific terms of a court decree state that one of the parents is responsible for the health care expenses of the child and if the entity obliged to pay or provide the benefits of the policy or plan of that parent has actual knowledge of those terms, the benefits of that policy or plan are determined first, ~~except. This does not apply with respect to any claim determination period or plan or policy year during which any benefits are actually paid or provided before the that entity has the that~~ actual knowledge.

(d) The benefits of a policy or plan which covers a person as an employee who is neither laid off nor retired, or as that employee's dependent, are determined before those of a policy or plan which covers ~~the~~ that person as a laid-off or retired employee or as ~~the~~ that employee's dependent. If the other policy or plan is not subject to this rule, and if, as a result, the policies or plans do not agree on the order of benefits, this paragraph ~~does shall~~ not apply.

(e) If none of the rules in paragraph (a), paragraph (b), paragraph (c), or paragraph (d) determine the order of benefits, the benefits of the policy or plan which covered an employee, member, or subscriber for a longer period of time are determined before those of the policy or plan which covered ~~the that~~ person for the shorter period of time.

(5) Coordination of benefits ~~are shall~~ not be permitted against an indemnity-type policy, an excess insurance policy as defined in s. 627.635, a policy with coverage limited to specified illnesses or accidents, or a Medicare supplement policy.

(6) If an individual is covered under a COBRA continuation plan as a result of the purchase of coverage as provided under the Consolidation Omnibus Budget Reconciliation Act of 1987 (P.L. 99-272), and also under another group plan, the following order of benefits applies:

(a) First, the plan covering the person as an employee, or as the employee's dependent.

(b) Second, the coverage purchased under the plan covering the person as a former employee, or as the former employee's dependent provided according to the provisions of COBRA.

Section 41. Section 627.4615, Florida Statutes, is amended to read:

627.4615 Interest payable on death claim payments.—When a policy provides for payment of its proceeds in a lump sum upon the death of the insured, ~~the such payment must shall~~ include interest, at an annual rate equal to or greater than the Moody's Corporate Bond Yield Average-Monthly Average Corporate as of the day the claim was received, ~~the rate of 11 percent per year~~ from the date the insurer receives written due proof of death of the insured. ~~If the method of calculating such index is substantially changed from the method of calculation in use on January 1, 1993, the rate must not be less than 8 percent. This section applies to all policies or contracts delivered or issued for delivery in this state on or after October 1, 1983.~~

Section 42. Section 627.481, Florida Statutes, is amended to read:

627.481 Special permit for certain annuity agreements.—

(1) The department may, in its discretion, issue a special permit to make annuity agreements with donors to any duly organized domestic or foreign nonstock corporation, or to any unincorporated charitable trust, if such corporation or trust has been in active operation for at least 5 10 years prior thereto and has qualified as an exempt organization under the Internal Revenue Code, 26 U.S.C. s. 501(c)(3). Such permit shall authorize such corporation or trust to receive gifts conditioned upon, or in return for, its agreement to pay an annuity to the donor or other designated beneficiary or beneficiaries and to make and carry out such annuity agreement. Every such corporation or trust shall, before making any such agreement, file with the department copies of its forms of agreements with annuitants and a schedule of its maximum annuity rates, which shall be so computed, on the basis of the annuity standard adopted by it for the calculation of its reserves, as to return to such corporation or trust upon the death of the annuitant a residue at least equal to one-half the original gift or other consideration for such annuity.

(2) Every such domestic corporation or such domestic or foreign trust shall have and maintain admitted assets at least equal to the sum of the reserves on its outstanding agreements, calculated in accordance with the United States Internal Revenue Code Revenue Ruling 72-438, and a surplus of 25 percent of such reserves. In determining the reserves of any such corporation or trust, a deduction shall be made for all or any portion of an annuity risk which is reinsured by a life insurance company authorized to do business in this state. The assets of such corporation or trust in an amount at least equal to the sum of such reserves and surplus shall be invested only in securities permitted under part II of chapter 625 for the investment of the reserves of authorized life insurance companies; and such assets shall be segregated as separate and distinct funds, independent of all other funds of such corporation or trust, and shall not be applied for the payment of the debts and obligations of the corporation or trust or for any purpose other than the annuity benefits specified in this section.

(3) No such foreign corporation shall be permitted to make these annuity agreements in this state unless it complies with all the requirements of this section imposed upon like domestic corporations, except that the corporation may invest its reserve and surplus funds in the kind of securities permitted by the laws of the state in which it was incorporated or organized.

(4) If the department finds that any such corporation or trust having such a special permit has failed to comply with the requirements of this section, it may revoke or suspend such permit or it may order such corporation or trust to cease making any new annuity contracts until such requirements have been satisfied. The department may, in its discretion, require annual statements by such corporation or trust and may accept in lieu thereof a sworn statement by two or more of the principal officers thereof, in such form as will satisfy the department that the requirements of this section are being complied with.

(5) Except as provided in this section, every such corporation or trust shall be exempt from the provisions of this code in making annuity agreements pursuant to a special permit issued under this section.

(6) Any annuity agreement entered into by a corporation or trust the sole purpose of which is to support a state institution of higher learning shall contain the following clause:

"This agreement is the entire contract between the parties, with rights and responsibilities of each party to the other as set forth herein. The donor or annuitant shall not have recourse against any assets of the state other than any funds or assets donated by, or funds derived from any assets donated by, the donor as set forth herein."

Section 43. Section 627.522, Florida Statutes, is created to read:

627.522 Policy requirements and prohibitions.—

(1) An industrial life insurance policy may not exclude or restrict the payment of the face amount by reason of the fact that the death of the insured occurred due to the act of another.

(2) Each of the optional benefits and charges provided under an industrial life insurance policy must be separately priced. The prices must be set forth in the policy in a clear, conspicuous, and understandable manner.

(3) This section does not limit the rights of any assignee of any industrial life insurance policy to enforce any assignment pursuant to its terms and does not prohibit an insurer from recognizing any such assignment pursuant to its terms.

Section 44. Section 627.551, Florida Statutes, is amended to read:

627.551 Group contracts and plans of self-insurance must meet group requirements.—

(1)(a) ~~A No life insurance policy shall be delivered or issued for delivery in this state~~ insuring the lives of more than one individual ~~may be delivered or issued for delivery in this state only if the policy is issued unless to one of the groups specified as provided for in ss. 627.552-627.5575 and 627.572, and only if the policy complies unless in compliance~~ with the other applicable provisions of this part.

(b) ~~A No plan of self-insurance providing benefits in the event of death to residents of this state may shall be established or maintained only if the plan complies unless in compliance~~ with the applicable provisions of this part relating to the rights of individuals to specified benefits and coverages.

(2) Subsection (1) does not apply to life insurance policies or plans of self-insurance:

(a) Insuring or providing benefits only to individuals related by blood, marriage, or legal adoption;

(b) Insuring or providing benefits only to individuals who have a common interest through ownership of a business enterprise, or a substantial legal interest or equity therein, and who are actively engaged in the management of the business enterprise. ~~thereof; or~~

(c) Insuring or providing benefits only to individuals otherwise having an insurable interest in each other's lives.

~~(3) Nothing in s. 627.552 shall affect the provisions of ss. 112.08 to 112.14 inclusive.~~

(3)(4) As used in this part:

(a) "Policy," "insurance policy," and "group life insurance policy" include plans of self-insurance providing death benefits.

(b) "Amount of insurance" and "insurance" include the death benefits provided under a plan of self-insurance.

(c) "Insurer" includes any person or governmental unit providing a plan of self-insurance.

~~(4)(5) A No nongovernmental self-insurance plan providing life insurance may not shall be contributory by participants.~~

~~(5)(6) This section does not apply to any plan which is established or maintained by an individual employer in accordance with the Employee Retirement Income Security Act of 1974, Pub. L. No. 93-406. This subsection does shall not allow be construed to permit an authorized insurer to issue a group life insurance policy or certificate which does not comply with this part.~~

Section 45. Section 627.552, Florida Statutes, is amended to read:

627.552 Employee groups.—*Subject to all of the requirements of this section, the lives of a group of individual employees of an employer individuals may be insured, for the benefit of persons other than the employer, under a policy issued to the an employer, or to the trustees of a fund established by an employer, which employer or board of trustees is shall be deemed to be the policyholder, to insure employees of the employer for the benefit of persons other than the employer, subject to the following requirements:*

(1)(a) The employees eligible for insurance under the policy shall be all of the employees of the employer, or all of any class or classes of employees thereof determined by conditions pertaining to their employment.

(b) The policy may provide that the term "employees" includes the employees of one or more subsidiary corporations, and includes the employees, individual proprietors, and partners of one or more affiliated corporations, proprietors, or partnerships if the business of the employer and of the such affiliated corporations, proprietors, or partnerships is under common control. The policy may provide that the term "employees" includes the individual proprietor or partners if the employer is an individual proprietor or a partnership. The policy may provide that the term "employees" includes directors of a corporate employer, former employees, or retired employees. ~~No individual proprietor or partner shall be eligible for insurance under the policy unless he is actively engaged in and devotes a substantial part of his time to the conduct of the business of the proprietor or partnership.~~

(c) A policy issued to insure the employees of a public body may provide that the term "employees" includes elected or appointed officials.

(2) The premium for the policy shall be paid by the policyholder, either from the employer's funds or from funds contributed by the insured employees, or from both. A policy on which no part of the premium is to be derived from funds contributed by the insured employees must insure all eligible employees, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer, except those employees who reject such coverage in writing.

(3) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the employees or by the employer or trustees.

This section does not affect the provisions of ss. 112.08-112.14.

Section 46. Section 627.554, Florida Statutes, is amended to read:

627.554 Labor union groups.—*Subject to all of the requirements of this section, the lives of a group of individual labor union members or labor union members and their dependents individuals may be insured, for the benefit of persons other than the union or any of its officials, representatives, or agents, under a policy issued to the a labor union, or to the trustees of a fund established in this state by the a labor union, which labor union or board of trustees is shall be deemed to be the policyholder, to insure members of such union for the benefit of persons other than the union or any of its officials, representatives, or agents, subject to the following requirements:*

(1) The individuals members eligible for insurance under the policy shall be all of the members of the union, or all of the members of any class or classes of union members thereof determined by conditions pertaining to their employment or to membership in the union, or to both. ~~When~~ A policy is issued to the trustees of a fund established in this state by a labor union, the policy may provide that the trustees or their employees, or both, may be insured under the policy if their duties are principally connected with such trusteeship.

(2) The premium for the policy shall be paid by the policyholder either wholly from the policyholder's funds or from funds contributed by the employer or employers of the insured persons or by the labor union, or by both, or partly from such funds and partly from funds contributed by the insured members specifically for their insurance. A policy on which no part of the premium is to be derived from funds contributed by the insured members specifically for their insurance must insure all eligible members, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer or except as to those who reject the coverage in writing.

(3) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the members or by the union.

Section 47. Section 627.555, Florida Statutes, is amended to read:

627.555 Trustee groups.—*Subject to all of the requirements of this section, the lives of a group of individual employees of employers or members of labor unions individuals may be insured, for the benefit of persons other than the employers or unions, under a policy issued to the trustees of a fund established by two or more employers in the same industry or by two or more labor unions, or to the trustees of a fund established by one or more employers in the same industry and one or more labor unions or by one or more employers and one or more labor unions whose members are in the same or related occupations or trades, which board of trustees is shall be deemed to be the policyholder, to insure employees of the employers or members of the unions for the benefit of persons other than the employers or the unions, subject to the following requirements:*

(1) A No policy may not be issued under this section:

(a) To insure employees of any employer whose eligibility to participate in the fund as an employer arises out of considerations directly related to the employer being a commercial correspondent or business client or patron of another employer, regardless of whether the other employer is or is not participating in the fund; or

(b) To insure employees of any employer not located in this state, unless the majority of the employers whose employees are to be insured are located in this state, or unless the employer has assumed obligations through a collective bargaining agreement and is participating in the fund either pursuant to those obligations with regard to one or more classes of his employees which are encompassed in the collective bargaining agreement or as a method of providing insurance benefits for other classes of his employees, or unless the policy is issued to the trustees of a fund established by two or more labor unions

(2)(a) The persons eligible for insurance shall be all of the employees of the employers or all of the members of the unions, or all of the members of any class or classes of employees or union members thereof determined by conditions pertaining to their employment or to membership in the unions, or both. The policy may provide that the term "employees" includes retired employees, former employees, directors of a corporate employer, and the individual proprietor or partners if an employer is an individual proprietor or a partnership. *The policy may provide that the term "employees" includes the employees of one or more subsidiary corporations, and the employees, individual proprietors, and partners of one or more affiliated corporations, proprietorships, or partnerships if the business of the employer and of the affiliated corporations, proprietorships, or partnerships is under common control. No director of a corporate employer shall be eligible for insurance under the policy unless such person is otherwise eligible as a bona fide employee of the corporation by performing services other than the usual duties of a director.*

(b) Except as provided in paragraph (a) herein as to retired employees, an no individual proprietor or partner is not shall be eligible for insurance under the policy as an employee unless he is actively engaged in and devotes a substantial part of his time to the conduct of the business of the proprietor or partnership. The policy may provide that the term "employees" includes the trustees or their employees, or both, if their duties are principally connected with such trusteeship.

(3) The premium for the policy shall be paid by the policyholder either wholly from the policyholder's funds or from funds contributed by the employer or employers of the insured persons or by the union or unions, or by both, or partly from such funds and partly from funds contributed by the insured persons. A No policy may not be issued if on which the entire gross premium charged for the insurance by the insurer is to be derived from funds contributed by the insured employees or members specifically for their insurance. ~~A policy on which part of the premium is to be derived from funds contributed by the insured persons specifically for their insurance may be placed in force only if at least 75 percent of the then eligible persons, excluding any as to whom evidence of insurability is not satisfactory to the insurer, elect to make the required contributions.~~ A policy on which no part of the premium is to be derived from funds contributed by the insured persons specifically for their insurance must insure all eligible persons, or all except any who reject the coverage in writing or as to whom evidence of individual insurability is not satisfactory to the insurer. *For the purpose of determining the number of eligible persons who must be covered under a policy, dependents may not be included as eligible persons.*

(4) The policy must cover at date of issue not less than five *individual persons*, other than individual proprietors or partners, *from each per* employer unit unless:

(a) The policy is issued to the trustees of a fund established by employers *that who* have assumed obligations through a collective bargaining agreement and are participating in the fund either pursuant to those obligations with regard to one or more classes of their employees which are encompassed in the collective bargaining agreement or as a method of providing insurance benefits for other classes of their employees; ~~unless~~

(b) The employer unit is a subsidiary corporation of an employer in the group or is an affiliated corporation, proprietorship, or partnership of an employer in the group whose business and that of such employer is under common control; ~~or unless~~

(c) The policy is issued to the trustees of a fund established by two or more labor unions.

(5) In addition to the ~~foregoing~~ requirements of subsection (4), if the fund is established by the members of a group of employers, the policy may be issued only if the participating employers constitute at the date of issue at least 60 percent of those employer members whose employees are not already covered for group life insurance or if the total number of persons covered at date of issue exceeds 600; ~~and~~ The policy *may* ~~shall~~ not require that, if a participating employer discontinues membership in the ~~such~~ group of employers, the insurance of *the employer's* his employees ~~ceases shall cease~~ solely by reason of *the such* discontinuance.

(6)~~(5)~~ The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the insured persons or by the policyholder, employers, or unions.

Section 48. Section 627.556, Florida Statutes, is amended to read:

627.556 Credit union groups.—The lives of a group of *individual credit union members* individuals may be insured under a policy issued to *the a* credit union, which ~~is shall~~ be deemed to be the policyholder ~~for the purpose of this section~~. The premium shall be paid by the credit union ~~or by the credit union and its members jointly~~, insuring all of its eligible members for the amounts of insurance, not in excess of the share balance, as to each member. The policy shall ~~be based upon some plan which will preclude individual selection and shall~~ be for the benefit of the share account of the member or some person or persons other than the credit union or its officials. All eligible members of a credit union may be insured; ~~however, when the premium is to be paid by the credit union and its members jointly and the benefits are offered to all eligible members, not less than 75 percent of such members may be so insured.~~

Section 49 Section 627.5565, Florida Statutes, is amended to read:

627.5565 Additional groups.—

~~(1) No group life insurance coverage may be offered to a resident of this state under a group life insurance policy issued to a group other than one of the groups identified in this section or specified in s. 627.5515, ss. 627.552 through 627.556, and s. 627.572.~~

~~(1)(2)~~ An insurer may afford coverage under a group policy issued under this subsection if *all of* the following conditions are satisfied:

(a) The issuance of the group policy is not contrary to the best interests of the public;.

(b) Coverage under the group policy is afforded on an actuarially sound basis;.

(c) The group policy results in economies of acquisition or administration of a magnitude comparable to other group policies under this part;.

(d) The premium for the policy is paid by the policyholder either from policyholder funds or from funds contributed by the covered persons, or from both;.

(e) The group consists at all times of not less than five persons;.

(f) Eligibility for participation in the group is not based on the health of an individual participant;.

(g) The group was organized and exists primarily for purposes other than the procurement of insurance; ~~and~~

(h) The composition of the group to which the policy is to be issued is not substantially similar to one of the groups specified in ss. ~~s.~~ 627.5515-627.5567, ~~ss.~~ 627.552 through 627.556, and ~~s.~~ 627.572.

~~(2)(3)~~ An insurer shall ~~within 30 days~~ inform the department of the effectuation of any coverage under this section *within 30 days after effectuation of coverage*. The insurer ~~is and shall be~~ responsible for establishing that the criteria of ~~set forth in~~ subsection (1)~~(2)~~ have been satisfied.

Section 50. Section 627.572, Florida Statutes, is transferred, renumbered as section 627.5567, Florida Statutes, and is amended to read:

627.5567 ~~627.572~~ Group life insurance; association groups.—*Subject to all of the requirements of this section*, the lives of a group of *individual members of an association or members and their employees or dependents* individuals may be insured, *for the benefit of persons other than the association or any of its official representatives or agents*, under a policy issued to ~~the an~~ association or to the board of trustees of a fund established in this state *for the association*, if the members of the association ~~which~~ are engaged in a particular profession and are licensed to engage in *the such* profession in this state and *if the which* association has been in existence for at least 2 years and holds regular meetings not less than annually to further the purposes of the association members. *The association or board of trustees is deemed to be the policyholder of the group life insurance policy, or to the trustees of a fund established in this state for such association, which shall be deemed the policyholder, to insure the members of such association for the benefit of persons other than the association or any of its official representatives or agents, subject to the following requirements:*

(1) The members eligible for insurance under the policy shall be all of the members of the association, or all of any class or classes of *members of the association* thereof determined by conditions pertaining to their profession or to membership in the association, or to both. ~~When A~~ A policy is issued to the trustees of a fund established in this state by an association, ~~the policy~~ may provide that the trustees or their employees, or both, may be insured under the policy if their duties are principally connected with *the such* trusteeship.

(2) The premium for the policy shall be paid by the policyholder either wholly from the policyholder's funds or funds contributed by the insured persons or by the association, or by both, or partly from such funds and partly from funds contributed by the insured members specifically for their insurance, *subject to the following:*

(a) A policy on which part of the premium is ~~to be~~ derived from funds contributed by the insured members specifically for their insurance may be placed in force only if at least 100 of the then eligible members elect to make the required contributions. The policy may contain a provision requiring evidence of insurability of individual members.

(b) A policy on which no part of the premium is ~~to be~~ derived from funds contributed by the insured members specifically for their insurance must insure all eligible members.

(3) The association ~~must shall~~ have been in existence for at least 2 years prior to the issuance of the policy; its annual dues ~~must shall~~ be actually be collected from its members; and it ~~must shall~~ not have been organized for the sole and exclusive purpose of qualifying for insurance under this section.

(4) If a dividend, premium refund, rate reduction, commission, or service fee is received by any association or by the trustees of a fund established in whole or in part by an association, under any ~~and all~~ group insurance *policy policies* issued for delivery in this state, with respect to which they are the policyholder, covering the members of the association, to which *the such* members contribute to the cost of the premiums for *the such* insurance, the excess, if any, of the aggregate of *the such* dividends, premium refunds, rate reductions, commissions, and service fees over the aggregate expenditure of *the such* association or trustees towards the cost of such insurance, including its administration, for the current and preceding 2 years, to the extent that they were not defrayed by dividends, premium refunds, rate reductions, commissions, and service fees, shall be applied by the policyholder for the sole benefit of insured members on a basis which precludes individual selection and unfair discrimination.

Section 51. Section 627.601, Florida Statutes, is amended to read:

627.601 Scope of this part.—Nothing in this part ~~of this chapter~~ applies to or affects:

(1) Any policy of liability insurance or workers' compensation insurance, with or without supplementary expense coverage therein.

(2) Any group or blanket policy, except as provided in ss. 627.648-627.6499 ~~627.6498~~.

(3) Life insurance, endowment, or annuity contracts, or contracts supplemental thereto, which contain only such provisions relating to health insurance *that as*:

(a) Provide additional benefits in case of death or dismemberment or loss of sight by accident or accidental means; or

(b) Operate to safeguard *the contract* ~~such contracts~~ against lapse, or to give a special surrender value or special benefit or an annuity *if in the event that* the insured or annuitant becomes totally and permanently disabled, as defined by the contract or supplemental contract.

(4) Reinsurance.

Section 52. Section 627.6085, Florida Statutes, is transferred and renumbered as section 627.6043, Florida Statutes.

Section 53. Section 627.6145, Florida Statutes, is transferred, renumbered as section 627.6044, Florida Statutes, and is amended to read:

~~627.6044~~ ~~627.6145~~ Use of a specific methodology for payment of claims.—

(1) Each insurance policy that provides for payment of claims based on a specific methodology, including, but not limited to, usual and customary charges, reasonable and customary charges, or charges based upon the prevailing rate in the community, shall specify the formula or criteria used by the insurer in determining the amount to be paid.

(2) Each insurer issuing a policy that provides for payment of claims based on a specific methodology shall provide to an insured, upon his written request, an estimate of the amount the insurer will pay for a particular medical procedure or service. *The estimate* ~~This estimated amount~~ may be in the form of a range of payments or an average payment. The insurer may require the insured to provide detailed information regarding the procedure or service to be performed, including the procedure or service code number provided by the health care provider *and the health care provider's estimated charge*. An insurer ~~that who~~ provides an insured with a good faith estimate *is shall* not be bound by *the such* estimate. However, ~~if the department finds that the insurer has demonstrated a pattern of providing estimates that vary significantly from the ultimate insurance payment constitutes, such practice shall be considered a violation of this the code.~~

Section 54. Section 627.607, Florida Statutes, is amended to read:

627.607 Time limit on certain defenses.—

(1) The contract shall include the following provision:

"Time Limit on Certain Defenses: After 2 years from the issue date, only fraudulent misstatements in the application may be used to void the policy or deny any claim for loss incurred or disability starting after the 2-year period."

(2) A policy *may, in place which the insured has the right to continue in force subject to its terms by the timely payment of premium until at least age 50 or, in the case of a policy issued after age 44, for at least 5 years from its date of issue may in lieu of the provision set forth in subsection (1), include the following provision:*

"Incontestable:

(a) Misstatements in the Application: After this policy has been in force for 2 years during the insured's lifetime (excluding any period during which the insured is disabled), the insurer cannot contest the statements in the application.

(b) Preexisting Conditions: No claim for loss incurred or disability starting after 2 years from the issue date will be reduced or denied because a sickness or physical condition, not excluded by name or specific description before the date of loss, had existed before the effective date of coverage."

Section 55. Section 627.6407, Florida Statutes, is created to read:

627.6407 Massage.—Any policy of health insurance that provides coverage for massage shall also cover the services of persons licensed to prac-

tice massage pursuant to chapter 480, where the massage has been prescribed by a physician licensed under chapter 458, chapter 459, chapter 460, or chapter 461, as being medically necessary and the prescription specifies the number of treatments.

Section 56. Section 627.6417, Florida Statutes, is amended to read:

627.6417 Optional coverage for surgical procedures and devices incident to mastectomy.—

(1) ~~An accident or health insurance policy All accident or health insurance policies which provide for the surgical procedure known as a mastectomy issued, amended, delivered, or renewed in this state that provides coverage for mastectomies must on or after October 1, 1987, shall make available to the policyholder, as part of the application, coverage for the initial prosthetic device and or reconstructive surgery incident to the mastectomy, provided that the mastectomy is performed after October 1, 1987. The insurer may charge an appropriate additional premium for the this coverage required by this subsection. The coverage for prosthetic devices and reconstructive surgery is shall be subject to the deductible and coinsurance conditions applied to the mastectomy, and all other terms and conditions applicable to other benefits. If When a mastectomy is performed and there is no evidence of malignancy, then the coverage may be limited to the provision of the initial prosthetic device and reconstructive surgery to within 2 years after the date of the mastectomy.~~

(2) As used in this section, *the term "mastectomy"* means the removal of all or part of the breast for medically necessary reasons as determined by a licensed physician.

(3) This section does not apply to disability income, specified disease, or hospital indemnity policies.

Section 57. Section 627.6419, Florida Statutes, is created to read:

627.6419 Requirements with respect to fibrocystic conditions.—An insurer may not deny the issuance or renewal of, or cancel, a policy of accident insurance or health insurance, nor include any exception or exclusion of benefits in a policy, solely because the insured has been diagnosed as having a fibrocystic condition, unless the condition is diagnosed through a breast biopsy that demonstrates an increased disposition to developing breast cancer. This section also applies to a policy of group, blanket, or franchise accident or health insurance and to a contract or evidence of coverage issued by a health maintenance organization.

Section 58. Section 627.643, Florida Statutes, is amended to read:

627.643 Uniform minimum standards.—

(1) The department shall adopt rules which establish minimum standards for the general content of forms of individual and family health insurance policies. *The rules must include, which shall be inclusive of* terms of renewability, initial and subsequent conditions of eligibility, termination of insurance, probationary periods, exclusions, limitations, and reductions. The minimum standards *are in addition to, and must comply with, the shall be in addition to, and in accord with,* individual health insurance policy provisions ~~as provided in part II and in this part.~~

(2) The department shall adopt rules which establish minimum standards of benefits and identification for each of the following categories of coverage in individual and family *accident and health insurance policy forms, other than conversion policy forms policies, of accident and health insurance:*

- (a) Basic hospital expense insurance.
- (b) Basic medical expense insurance.
- (c) Basic surgical expense insurance.
- (d) Hospital confinement indemnity insurance.
- (e) Major medical expense insurance.
- (f) Disability income protection insurance.
- (g) Accident-only insurance.
- (h) Limited benefit insurance.
- (i) Supplemental insurance.
- (j) Home health care coverage.

(k) *Nonconventional coverage.*

This subsection does not ~~Nothing in this section shall~~ preclude the issuance of ~~a any~~ policy which combines two or more of the categories of coverage enumerated in paragraphs (a) through (e). *This subsection does not preclude the issuance of a policy that, or any policy which* does not meet the prescribed minimum standards for categories of coverage in paragraphs (a) through (g) *if the department determines that the policy is when such policy is, in the opinion of the department,* either experimental in nature or is demonstrated to be a type of coverage that *fulfills will* fulfill a reasonable need of the person or persons to be insured. Any policy *not meeting the minimum standards that is approved by the department must so approved will* be identified as to category only as prescribed by the department.

(3) The department may, within ~~the such~~ time as provided by law for the disapproval of an individual or family form of accident or health insurance, disapprove any form if it finds that the form does not comply with applicable law ~~in this state~~ or it finds that the form is unjust, unfair, or inequitable to the policyholder, any insured, or any beneficiary. In acting upon any submission, the department shall consider whether the benefits afforded under the submitted policy or benefit form ~~would~~ fulfill a reasonable need of a policyholder.

Section 59. Section 627.651, Florida Statutes, is amended to read:

627.651 Group contracts and plans of self-insurance must meet group requirements.—

(1) Except as otherwise provided by law, ~~a no~~ group health insurance policy or certificate *insuring more than one individual shall be* delivered or issued for delivery in this state *must be delivered or issued for delivery insuring more than one individual unless* to one of the groups provided for in ss. 627.653-627.656. A No plan of self-insurance providing health coverage benefits to residents of this state *must comply shall be established or maintained unless the plan is in compliance with s. 627.419 and* the applicable provisions of this part relating to the rights of individuals to specified benefits and coverages.

(2) Subsection (1) does not apply to health insurance policies or plans of self-insurance:

(a) Insuring or providing benefits only to individuals related by blood, marriage, or legal adoption;

(b) Insuring or providing benefits only to individuals who have a common interest through ownership of a business enterprise, or a substantial legal interest or equity *in the business enterprise therein*, and who are actively engaged in the management *of the business enterprise thereof*;

(c) Insuring or providing benefits only to individuals otherwise having an insurable interest in each other's lives;~~or~~

(d) Issued as blanket insurance pursuant to s. 627.659.

~~(3) Nothing in s. 627.653 affects the provisions of ss. 112.08 to 112.14 inclusive.~~

~~(3)(4) A No~~ nongovernmental self-insurance plan for health benefits may ~~not shall~~ be contributory by participants.

~~(4)(5)~~ This section does not apply to any plan which is established or maintained by an individual employer in accordance with the Employee Retirement Income Security Act of 1974, Pub. L. No. 93-406, or to a multiple-employer welfare arrangement as defined in s. 624.437(1), except that *a such* multiple-employer welfare arrangement shall comply with the ~~requirements of~~ ss. 627.419, 627.657, 627.6575, 627.6576, 627.6578, 627.6579, 627.6615, 627.6616, and 627.662(5). This subsection *does not allow shall not be construed to permit* an authorized insurer to issue a group health insurance policy or certificate which does not comply with this part.

Section 60. Section 627.6516, Florida Statutes, is created to read:

627.6516 Trustee groups.—A group of employees of employers or members of labor unions may be insured for the benefit of persons other than the employers or unions under a policy issued to the trustees of a fund established by two or more employers in the same industry or by two or more labor unions, or to the trustees of a fund established by one or more employers in the same industry and one or more labor unions or by one or more employers and one or more labor unions whose members are in the same or related occupations or trades, which trustees are deemed to the policyholder, subject to the following requirements:

(1) A policy may not be issued:

(a) To insure employees of any employer whose eligibility to participate in the fund as an employer arises out of considerations directly related to the employer being a commercial correspondent or business client or patron of another employer, regardless of whether the other employer is or is not participating in the fund; or

(b) To insure employees of any employer not located in this state, unless the majority of the employers whose employees are to be insured are located in this state, or unless the employer has assumed obligations through a collective bargaining agreement and is participating in the fund either pursuant to those obligations with regard to one or more classes of its employees that are encompassed in the collective bargaining agreement or as a method of providing insurance benefits for other classes of its employees, or unless the policy is issued to the trustees of a fund established by two or more labor unions.

(2)(a) The persons eligible for insurance must be all of the employees of the employers or all of the members of the unions, or all of the members of any class or classes of employees or members determined by conditions pertaining to their employment or to membership in the unions, or both. The policy may provide that the term "employees" includes corporate directors, former employees, or retired employees and the individual proprietor or partners if an employer is an individual proprietor or a partnership.

(b) Except as provided in paragraph (a) as to retired employees, an individual proprietor or partner is not eligible for insurance under the policy as an employee unless he is actively engaged in and devotes a substantial part of his time to the conduct of the business of the proprietor or partnership. The policy may provide that the term "employees" includes the trustees or their employees, or both, if their duties are principally connected with such trusteeship.

(c) A policy may insure the spouse or dependent children with or without the employee of the employer or member of the union being insured.

(3) The premium for the policy must be paid by the policyholder either wholly from the policyholder's funds or from funds contributed by the employer or employers of the insured persons or by the union or unions, or by both, or partly from such funds and partly from funds contributed by the insured persons.

(4)(a) The policy must cover at date of issue not less than five persons, other than individual proprietors or partners, from each employer unit unless any of the following apply:

1. The policy is issued to the trustees of a fund established by employers who have assumed obligations through a collective bargaining agreement and are participating in the fund either pursuant to those obligations with regard to one or more classes of their employees encompassed in the collective bargaining agreement or as a method of providing insurance benefits for other classes of their employees.

2. The employer unit is a subsidiary corporation of an employer in the group or is an affiliated corporation, proprietorship, or partnership of an employer in the group whose business is under common control with the business of the employer.

3. The policy is issued to the trustees of a fund established by two or more labor unions.

(b) If the fund is established by the members of a group of employers:

1. The policy may be issued only if the participating employers constitute at date of issue at least 60 percent of those employer members whose employees are not already covered for group health insurance or if the total number of persons covered at date of issue exceeds 600.

2. The policy may not require that, if a participating employer discontinues membership in such group of employers, the insurance of its employees will cease solely by reason of such discontinuance.

(5) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the insured persons or by the policyholder, employer, or unions.

Section 61. Section 627.653, Florida Statutes, is amended to read:

627.653 Employee groups.—

(1)(a) A group of individual employees of an employer, or employees and their dependents, ~~individuals~~ may be insured, for the benefit of persons other than the employer, under a policy issued to the ~~an~~ employer, or to the trustees of a fund established by an employer, which employer or board of trustees is ~~shall be deemed to be~~ the policyholder, insuring employees of the employer for the benefit of persons other than the employer.

(b) Employees insured under a policy issued pursuant to this section ~~The term "employees" as used herein~~ may include any of the following:

1.(a) Directors of a corporate employer, former employees, or retired employees;

2.(b) The individual proprietor or partners if the employer is a proprietor or partnership; ~~and~~

3.(c) Elected or appointed officials if the policy is issued to insure employees of a public body.

(c) A policy issued pursuant to this section may insure ~~The policy may provide for insuring~~ the employees of one or more subsidiary or affiliated corporations, proprietors, and partnerships if the business of the employer and the ~~such~~ subsidiary or affiliated corporations, proprietors, or ~~and~~ partnerships are under common control.

(2) A policy may not be issued pursuant to this section ~~No such policy of insurance as defined in subsection (1) may be issued to any employer, as enumerated therein,~~ unless all employees of the ~~such~~ employer are declared eligible and acceptable to the insurer at the time of issuance of the policy, or unless all members of any class or classes of the employees thereof, determined by conditions pertaining to their employment, but not determined so as to exclude those in the more hazardous employment solely because of their hazardous employment, are declared eligible and acceptable to the insurer at the time of issuance of the policy.

(3) A policy issued pursuant to this section ~~Any such policy~~ may insure the spouse or dependent children with or without the employee being insured.

(4) This section does not affect the provisions of ss. 112.08-112.14.

Section 62. Section 627.655, Florida Statutes, is amended to read:

627.655 Debtor groups.—A group of individual debtors of a creditor ~~individuals~~ may be insured under a policy issued to a creditor, ~~who shall be deemed the policyholder,~~ under which the debtors of ~~such~~ creditor are indemnified in connection with a specific loan or credit transaction against loss of time resulting from bodily injury or sickness. The creditor is deemed the policyholder of a policy issued pursuant to this section. Two types of insurance may be used to insure against the occurrence of disability of the lives of a group of individual debtors pursuant to this section as follows:

(1) Credit disability insurance as defined in s. 627.677. The debtors eligible for ~~such~~ insurance under this section are ~~the policy shall be~~ all of the debtors of the creditor, or all members of any class or classes of debtors of the creditor thereof, determined by conditions pertaining to the indebtedness or to the credit transaction giving rise to the indebtedness. A policy issued pursuant to this section may insure ~~The policy may provide that the term "debtors" shall include the debtors of one or more subsidiary or affiliated corporations, proprietors, or partnerships, if the business of the creditor and of such subsidiary or affiliated corporations, proprietors, or partnerships is under common control. A~~ The policy may be issued pursuant to this section only if the group of eligible debtors is then receiving new entrants at the rate of at least 100 persons yearly, or may reasonably be expected to receive at least 100 new entrants during the first policy year, and only if the policy reserves to the insurer the right to require evidence of individual insurability if less than 75 percent of the new entrants become insured.

(2) Mortgage insurance as defined in s. 627.982. The debtors eligible for insurance under the policy are all of the debtors of the creditor, or all of any class or classes of debtors of the creditor. The term "debtors" includes borrowers of money in connection with an indebtedness of more than 10 years' duration, which indebtedness is secured by a first real estate mortgage and which indebtedness is not subject to part IX.

Section 63. Subsection (5) of section 627.6575, Florida Statutes, as created by section 133 of chapter 92-33, Laws of Florida, is amended to read:

627.6575 Coverage for newborn children.—

(5) If the policy or contract does not require the insured to notify the insurer of the birth within a specified time period, the insurer may not deny coverage for such child or retroactively charge the insured an additional premium for the child. However, the insurer may prospectively charge the insured an additional premium for the child if the insurer provides at least 45 days' notice of the additional premium required.

Section 64. Section 627.6612, Florida Statutes, is amended to read:

627.6612 Optional coverage for surgical procedures and devices incident to mastectomy.—

(1) A ~~All policies of group, blanket, or franchise accident or health insurance policy which provide for the surgical procedure known as a mastectomy~~ issued, amended, delivered, or renewed in this state ~~that provides coverage for mastectomies must on or after October 1, 1987,~~ shall make available to the policyholder coverage for the initial prosthetic device and ~~or reconstructive surgery incident to the mastectomy, provided that the mastectomy is performed after October 1, 1987.~~ The insurer may charge an appropriate additional premium for the coverage required by this subsection ~~this coverage.~~ The coverage for prosthetic devices and reconstructive surgery is ~~shall be~~ subject to the deductible and coinsurance conditions applied to the mastectomy, and all other terms and conditions applicable to other benefits. ~~If When a mastectomy is performed and there is no evidence of malignancy, then the coverage may be limited to the provision of the initial prosthetic device and reconstructive surgery to within 2 years after the date of the mastectomy.~~

(2) As used in this section, the term "mastectomy" means the removal of all or part of the breast for medically necessary reasons as determined by a licensed physician.

Section 65. Section 627.6619, Florida Statutes, is created to read:

627.6619 Massage.—Any policy of health insurance that provides coverage for massage shall also cover the services of persons licensed to practice massage pursuant to chapter 480, where the massage has been prescribed by a physician licensed under chapter 458, chapter 459, chapter 460, or chapter 461, as being medically necessary and the prescription specifies the number of treatments.

Section 66. Section 627.666, Florida Statutes, is amended to read:

627.666 Liability of succeeding insurer on replacement of group blanket, or franchise health insurance policy.—Upon replacement of a group, blanket, or franchise health insurance policy:

(1) Each person who was covered by the prior insurer must be covered by the succeeding insurer; however, the prior insurer is liable for any extension of benefits in accordance with s. 627.667 ~~is eligible for coverage in accordance with the succeeding insurer's plan of benefits shall be covered by that insurer's plan of benefits upon payment of the applicable premium.~~

(2) ~~Each person not covered under the succeeding insurer's plan shall, upon payment of a premium equivalent to that which would have been paid if such person had been eligible for coverage, be covered by the succeeding insurer in accordance with the following provisions if such individual was validly covered, including benefit extension, under the prior plan on the date of discontinuance of the prior plan and if such individual is a member of the class of individuals eligible for coverage under the succeeding insurer's plan:~~

(a) ~~The minimum level of benefits to be provided by the succeeding insurer shall be the applicable level of benefits of the prior insurer's plan reduced by any benefits payable by the prior plan.~~

(b) ~~Coverage shall be provided by the succeeding insurer until at least the earliest of the following dates:~~

1. ~~The date the individual becomes eligible under the succeeding insurer's plan.~~

2. ~~The date the individual's coverage would terminate in accordance with the succeeding insurer's plan provisions applicable to individual termination of coverage.~~

~~3. In the case of an individual who was totally disabled immediately prior to the date the succeeding insurer's coverage became effective, the end of any period of extension or accrued liability required of the prior insurer under s. 627.667, if applicable, or the end of any period of extension or accrued liability which would have been required had s. 627.667 been applicable.~~

~~(c) In the event that the eligible class provides for dependent children, a limiting age shall not waive the succeeding insurer's liability to handicapped children who met the criteria of s. 627.6615 with the prior carrier and continue to meet those criteria.~~

~~(3) If the succeeding insurer's plan contains a "preexisting conditions" clause, the level of benefits under the clause shall be the lesser of:~~

~~(a) The benefits of the succeeding insurer's plan determined without application of the preexisting conditions limitation; or~~

~~(b) The benefits of the prior plan.~~

(2)(4) The succeeding insurer, in applying any deductible, out-of-pocket limitation, or waiting period in its plan, shall give credit for the satisfaction or partial satisfaction of the same or similar provisions under a prior plan. As to deductible provisions, the credit applies shall apply for expenses actually incurred and applied against the deductible provisions of the prior insurer's plan during the 90 days preceding the effective date of the succeeding insurer's plan, but only to the extent that the expenses actually incurred these expenses are recognized under the terms of the succeeding insurer's plan and are subject to a similar deductible provision.

(3)(5) ~~If in any situation in which~~ a determination of the prior insurer's benefit is required by the succeeding insurer, the prior insurer shall, at the succeeding insurer's request, furnish a statement of the benefits available or pertinent information sufficient to permit verification of the benefit determination, or the determination itself, by the succeeding insurer. For the purposes of this subsection purpose of this section, benefits of the prior plan must will be determined in accordance with all of the definitions, conditions, and covered expense provisions of the prior plan, rather than in accordance with the comparable provisions those of the succeeding plan. The benefit determination must will be made as if coverage had not been replaced by the succeeding insurer.

(4)(6) ~~This section also applies The provisions of this section also~~ apply upon the issuance of an insurance policy to a group whose benefits had previously been self-insured or to a self-insurer providing coverage to a group that had been previously covered by an insurer or another self-insurer.

Section 67. Section 627.667, Florida Statutes, is amended to read:

627.667 Extension of benefits.—

(1) ~~Each Every~~ group, blanket, or franchise policy or contract renewed, delivered, or issued for delivery in this state shall contain a reasonable provision for extension of benefits in the event of the total disability of a certificateholder of the policy or contract at the date of discontinuance of the policy or contract. The extension is shall be required regardless of whether the group policyholder or other entity secures replacement coverage from a new insurer or forgoes foregoes the provision of coverage.

(2) ~~Each disability income or indemnity-type group, blanket, or franchise plan must contain a reasonable extension of benefits or accrued liability provision that provides for continuation of policy benefits in connection with the disability. Discontinuance of the policy during a disability shall have no effect on benefits payable for that disability or confinement under a group, blanket, or franchise plan providing benefits for loss of time from work or specific indemnity during hospital confinement.~~

(3)(a) In the case of hospital, or medical, or surgical expense coverage other than for dental or and maternity expense, a reasonable extension-of-benefits or accrued-liability provision is required. The required provision must provide, which provides for continuation of policy benefits in connection with the treatment of a specific accident or illness incurred while the policy was in effect. The required Such provision is will be considered reasonable if it provides an extension of at least 12 months under "major medical" type and "comprehensive medical" types of coverage and, under other types of hospital, or medical, or surgical expense coverage, provides an extension of at least 90 days or an accrued liability for expenses incurred during a period of disability.

(b)1. An extension of benefits is required in a group, blanket, or franchise policy or contract that provides coverage for dental procedures either in the form of reimbursed expenses or services performed.

2. The extension required by subparagraph 1. applies if all of the following apply:

a. The course of treatment or dental procedures were recommended in writing and commenced, in connection with a specific accident or illness incurred while the policy was in effect, by the attending physician or dentist to the patient while the patient was covered by the policy or contract.

b. The dental procedures were procedures for other than routine examinations, prophylaxis, X rays, sealants, or orthodontic services.

c. The dental procedures were performed within 90 days after the patient's coverage ceased under the policy or contract and the termination of coverage did not occur as a result of the patient's, or, in the case of a dependent child, the child's parent's, voluntary termination of coverage.

3. The extension of benefits terminates upon the earlier of:

a. The end of the 90-day period specified in sub-subparagraph 2.c.

b. The date the patient becomes covered under the succeeding policy or contract providing coverage or services for similar dental procedures.

4. If coverage or services for the dental procedures referred to in sub-subparagraph 2.a. are excluded by the succeeding policy or contract through the use of an elimination period, the patient is not covered by the succeeding policy or contract and the extension of benefits does not terminate.

5. All policy or contractual limitations, exclusions, or reductions that would have applied to the specific dental procedures had the coverage on the patient not terminated apply during the extension of benefits. In the case of dental expense coverage, a reasonable extension of benefits or accrued liability provision is required, which provision provides for continuation of policy benefits in connection with the treatment due to a specific accident or illness incurred while the policy was in effect. The provision of benefits shall be considered reasonable if it provides for an extension of at least 90 days if coverage is otherwise provided under a health insurance plan or a dental plan. The provision of benefits may not be based upon total disability.

(c) In the case of maternity expense coverage, a reasonable extension of benefits or accrued liability provision is required. The required provision must provide, which provision provides for continuation of policy benefits in connection with maternity expenses for a pregnancy which commenced while the policy was in effect. The extension shall be for the period of that pregnancy and may not be based upon total disability.

(4) Any applicable extension of benefits or accrued liability provision shall be described in both the any policy or contract involved and the as well as in group insurance certificates.

(5) The benefits payable during any period of extension or accrued liability may be subject to the regular benefit limits of the policy or contract, but may not provide benefit limits lower than the limits provided in the policy or contract shall provide no lesser benefit limits.

(6)(6) This section also applies to holders of group certificates which are renewed, delivered, or issued for delivery to residents of this state under group policies effectuated or delivered outside this state, unless a succeeding carrier under a group policy has agreed to assume liability for the such benefits.

Section 68. Section 627.668, Florida Statutes, is amended to read:

627.668 Optional coverage for mental and nervous disorders required; exception.—

(1) Every insurer, health maintenance organization, and nonprofit hospital and medical service plan corporation transacting group health insurance or providing prepaid health care in this state shall make available to the policyholder as part of the application, for an appropriate additional premium under a group hospital and medical expense-incurred insurance policy, under a group prepaid health care contract, and under a group hospital and medical service plan contract, the benefits or level of benefits specified in subsection (2) for the necessary care

and treatment of mental and nervous disorders, as defined in the standard nomenclature of the American Psychiatric Association, subject to the right of the applicant for a group policy or contract to select any alternative benefits or level of benefits as may be offered by the insurer, health maintenance organization, or service plan corporation provided that, if alternate inpatient, outpatient or partial hospitalization benefits are selected, such benefits shall not be less than the level of benefits required under paragraph (2)(a), paragraph (2)(b), or paragraph (2)(c), respectively.

(2) Under group policies or contracts, inpatient hospital benefits, partial hospitalization benefits, and outpatient benefits consisting of durational limits, dollar amounts, deductibles, and coinsurance factors shall not be less favorable than for physical illness generally, except that:

(a) Inpatient benefits may be limited to not less than 30 days per benefit year as defined in the policy or contract. If inpatient hospital benefits are provided beyond 30 days per benefit year, the durational limits, dollar amounts, and coinsurance factors thereto need not be the same as applicable to physical illness generally.

(b) Outpatient benefits may be limited to \$1,000 for consultations with a licensed physician, a licensed psychologist, and a licensed mental health professional as defined in the policy or contract. If benefits are provided beyond the \$1,000 per benefit year, the durational limits, dollar amounts, and coinsurance factors thereof need not be the same as applicable to physical illness generally.

(c) Partial hospitalization benefits shall be provided under the direction of a licensed physician. For purposes of this part, the term "partial hospitalization services" is defined as those services offered by a program accredited by the Joint Commission on Accreditation of Hospitals (JCAH) or in compliance with equivalent standards. Alcohol rehabilitation programs accredited by the Joint Commission on Accreditation of Hospitals or approved by the state and licensed drug abuse rehabilitation programs shall also be qualified providers under this section. In any benefit year, if partial hospitalization services or a combination of inpatient and partial hospitalization are utilized, the total benefits paid for all such services shall not exceed the cost of 30 days of inpatient hospitalization for psychiatric services, including physician fees, which prevail in the community in which the partial hospitalization services are rendered. If partial hospitalization services benefits are provided beyond the limits set forth in this paragraph, the durational limits, dollar amounts, and coinsurance factors thereof need not be the same as those applicable to physical illness generally.

(3) *Insurers must maintain strict confidentiality regarding psychiatric and psychotherapeutic records submitted to an insurer for the purpose of reviewing a claim for benefits payable under this section. These records submitted to an insurer are subject to the limitations of s. 455.241, relating to the furnishing of patient records.*

~~(3) This section, as amended by chapter 83-268, Laws of Florida, applies to all policies issued or renewed on or after October 1, 1983.~~

Section 69. Effective upon this act becoming a law, paragraphs (c) and (h) of subsection (3), paragraphs (e) and (f) of subsection (5), paragraphs (b), (g), and (j) of subsection (8), and paragraph (b) of subsection (9) of section 627.6699, Florida Statutes, as created by section 117 of chapter 92-33, Laws of Florida, are amended to read:

627.6699 Employee Health Care Access Act.—

(3) DEFINITIONS.—As used in this section:

(c) "Carrier" means a person who provides health benefit plans in this state, including an authorized insurer, a health maintenance organization, a multiple-employer welfare arrangement, or any other person providing a health benefit plan that is subject to insurance regulation in this state. *However, "carrier" does not include a multiple-employer welfare arrangement established by an association of members of the same profession, which multiple-employer welfare arrangement operates solely for the benefit of the members or the members and the employees of such members, was in existence on January 1, 1992, and provides coverage for any member of the association with 11 or more employees or any such member and dependents of the member, upon the member's request for such coverage.*

(h) "Health benefit plan" means any hospital or medical expense-incurred policy or certificate, hospital or medical service plan contract, or health maintenance organization subscriber contract. The term does not

include accident-only, specified disease, individual hospital indemnity, credit, dental-only, vision-only, Medicare-supplement, long-term care, or disability income insurance; coverage issued as a supplement to liability insurance; workers' compensation or similar insurance; or automobile medical-payment insurance.

(5) AVAILABILITY OF COVERAGE.—

(e) A health care plan covering small employers, *issued or renewed on or after October 1, 1992*, must comply with the following provisions:

1. Preexisting condition provisions must not exclude coverage for a period beyond 12 months following the individual's effective date of coverage and may only relate to:

a. Conditions that, during the 6-month period immediately preceding the effective date of coverage, had manifested themselves in such a manner as would cause an ordinarily prudent person to seek medical advice, diagnosis, care, or treatment or for which medical advice, diagnosis, care, or treatment was recommended or received; or

b. A pregnancy existing on the effective date of coverage.

2. In determining whether a preexisting condition provision applies to an eligible employee or dependent, credit must be given for the time the person was covered under qualifying previous coverage if the previous coverage was continuous to a date not more than 30 days prior to the effective date of the new coverage, exclusive of any applicable waiting period under the plan.

3. Late enrollees may be excluded from coverage only for the greater of 18 months or the period of an 18-month preexisting condition exclusion; however, if both a period of exclusion from coverage and a preexisting condition exclusion are applicable to a late enrollee, the combined period may not exceed 18 months after the effective date of coverage.

4. Any requirement used by a small employer carrier in determining whether to provide coverage to a small employer group, including requirements for minimum participation of eligible employees and minimum employer contributions, must be applied uniformly among all small employer groups having the same number of eligible employees applying for coverage or receiving coverage from the small employer carrier. A small employer carrier may vary application of minimum participation requirements and minimum employer contribution requirements only by the size of the small employer group.

5.a. Except as provided in sub-subparagraph b., in applying minimum participation requirements with respect to a small employer, a small employer carrier shall not consider employees or dependents who have qualifying existing coverage in determining whether the applicable percentage of participation is met.

b. With respect to a small employer with 10 or fewer eligible employees, a small employer carrier may consider employees or dependents who have coverage under another health benefit plan sponsored by such small employer in applying minimum participation requirements.

6. A small employer carrier shall not increase any requirement for minimum employee participation or any requirement for minimum employer contribution applicable to a small employer at any time after the small employer has been accepted for coverage, unless the employer size has changed, in which case the small employer carrier may apply the requirements that are applicable to the new group size.

7. If a small employer carrier offers coverage to a small employer, it must offer coverage to all the small employer's eligible employees and their dependents. A small employer carrier may not offer coverage limited to certain persons in a group or to part of a group, except with respect to late enrollees.

8. A small employer carrier shall not modify a standard or basic health benefit plan with respect to a small employer or any eligible employee or dependent through riders, endorsements, or otherwise to restrict or exclude coverage for certain diseases or medical conditions otherwise covered by the standard or basic health benefit plan.

9. An initial enrollment period of at least 30 days must be provided.

(f)1. A small employer carrier need not offer coverage or accept applications pursuant to paragraph (a):

a. To a small employer if the small employer is not physically located in an established geographic service area of the small employer carrier;

b. To an employee if the employee does not work or reside within an established geographic service area of the small employer carrier; or

c. To a small employer group within an area in which the small employer carrier reasonably anticipates, and demonstrates to the satisfaction of the department, that it cannot, within its network of providers, deliver service adequately to the members of such groups because of obligations to existing group contract holders and enrollees.

2. A small employer carrier that cannot offer coverage pursuant to sub-subparagraph 1.c. may not offer coverage in the applicable area to new cases of employer groups having more than 25 eligible employees or small employer groups until the later of 180 days following each such refusal or the date on which the carrier notifies the department that it has regained its ability to deliver services to small employer groups.

3.a. The department shall, by rule, require each small employer carrier to report, along with its annual statement for calendar year 1992, its gross annual premiums for health benefit plans issued to small employers during calendar year 1992, including both new and renewal business. No later than ~~May~~ April 1, 1993, the department shall calculate each carrier's percentage of all small employer carrier premiums for calendar year 1992.

b. During calendar year 1993, a small employer carrier may elect to not offer coverage or accept applications pursuant to paragraph (a):

(I) After its gross annual premiums for all small employer group health benefit plans written or renewed for that year, excluding blocks of business assumed from other carriers, exceeds 25 percent of the total of all small employer carrier premiums for calendar year 1992; or

(II) After its gross annual premiums for small employer group health benefit plans written or renewed for that year, excluding blocks of business assumed from other carriers, exceeds three times that carrier's gross annual premiums for small employer group health benefit plans written or renewed during calendar year 1992, if its share of small employer carrier business for calendar year 1992 calculated under sub-subparagraph a. exceeds 2 percent.

c. The election under sub-subparagraph b. is effective upon filing of a notice of election with the department. The department may, within 30 days after the filing of the notice, disapprove the election if it finds that the carrier does not meet the criteria of sub-subparagraph b. If the department disapproves the election, the carrier is subject to paragraph (a), effective on the date of such disapproval.

d. An election under sub-subparagraph b. expires on December 31, 1993, or upon revocation, whichever occurs earlier.

e. A carrier may file with the department a notice revoking its election under sub-subparagraph b. after the election has been in effect for at least 3 months. Such revocation of an election takes effect on the first day of the calendar quarter following the filing of such notice with the department and subjects the carrier to all requirements of paragraph (a).

f. While a carrier's election under sub-subparagraph b. is in effect, the carrier may not write any further small employer group health benefit plans.

g. A carrier may not make an election under sub-subparagraph b. more than once.

4.a. Beginning in 1994, the department shall, by rule, require each small employer carrier to report, on or before March 1 of each year, its gross annual premiums for all health benefit plans issued to small employers during the previous calendar year, and also to report its gross annual premiums for new, but not renewal, standard and basic health benefit plans subject to this section issued during the previous calendar year. No later than ~~May~~ April 1 of each year, the department shall calculate each carrier's percentage of all small employer group health premiums for the previous calendar year and shall calculate the aggregate gross annual premiums for new, but not renewal, standard and basic health benefit plans for the previous calendar year.

b. Beginning with calendar year 1994, a small employer carrier may elect to not offer coverage or accept applications pursuant to paragraph (a):

(I) After its gross annual premiums for new, but not renewal, standard and basic health benefit plans subject to this section for that year, excluding blocks of business assumed from other carriers, exceeds 25 percent of the aggregate gross annual premiums for new, but not renewal, standard and basic health benefit plans subject to this section for the previous calendar year as determined under sub-subparagraph a.; or

(II) After its gross annual premiums for new, but not renewal, standard and basic health benefit plans subject to this section, excluding blocks of business assumed from other carriers, exceeds three times the carrier's percentage of all small employer group premiums for the previous calendar year as determined under sub-subparagraph a., multiplied by the aggregate gross annual premiums for new standard and basic health benefit plans for the previous year as determined under sub-subparagraph a. A carrier may not exercise this option unless its percentage of all small employer group premiums for the previous calendar year as determined under sub-subparagraph a. exceeds 2 percent.

c. The election under sub-subparagraph b. is effective upon filing of a notice of election with the department. The department may, within 30 days after the filing of the notice, disapprove the election if it finds that the carrier does not meet the criteria of sub-subparagraph b. If the department disapproves the election, the carrier is subject to paragraph (a), effective on the date of such disapproval.

d. An election under sub-subparagraph b. expires on December 31 of the year in which the election was made or upon revocation, whichever occurs earlier.

e. A carrier may file with the department a notice revoking its election under sub-subparagraph b. after the election has been in effect for at least 3 months. Such revocation of an election takes effect on the first day of the calendar quarter following the filing of such notice with the department and subjects the carrier to all requirements of paragraph (a).

f. While a carrier's election under sub-subparagraph b. is in effect, the carrier may not write any further new small employer group health benefit plans during the remainder of the calendar year.

g. A carrier may not make an election under sub-subparagraph b. more than once in any calendar year.

(8) SMALL EMPLOYER HEALTH REINSURANCE PROGRAM.—

(b)1. The program shall operate subject to the supervision and control of the board.

2. Until December 31, 1993, the board shall consist of the commissioner or his designee, who shall serve as chairman, and seven additional members appointed by the commissioner on or before May 1, 1992, as follows:

a. One member shall be a representative of the largest health insurer in the state, as determined by market share as of December 31, 1991.

b. One member shall be a representative of the largest health maintenance organization in the state, as determined by market share as of December 31, 1991.

c. Three members shall be selected from a list of individuals recommended by the Health Insurance Association of America.

d. Two members shall be selected from a list of individuals recommended by the Florida Insurance Council.

The terms of members appointed under this subparagraph expire on December 31, 1993. The appointment of a member under this subparagraph does not preclude the commissioner from appointing the same person to serve as a member under subparagraph 3.

3. Beginning January 1, 1994, the board shall consist of the commissioner or his designee, who shall serve as chairman, and eight additional members who are representatives of carriers and are shall be appointed by the commissioner and serve as follows:

a. The commissioner shall include representatives of small employer carriers subject to assessment under this subsection. *If two or more carriers elect to be risk-assuming carriers, the membership must include at least two representatives of risk-assuming carriers; if one carrier is risk-assuming, one member must be a representative of such carrier. At least one member must be a carrier who is subject to the assessments, but is*

not a small employer carrier. Subject to such restrictions, at least five members shall be selected from individuals recommended by small employer carriers pursuant to procedures provided by rule of the department.

b. A member appointed under this subparagraph shall serve a term of 4 years and shall continue in office until the member's successor takes office, except that, in order to provide for staggered terms, the commissioner shall designate two of the initial appointees under this subparagraph to serve terms of 2 years and shall designate three of the initial appointees under this subparagraph to serve terms of 3 years.

4. The commissioner may remove a member for cause.

5. Vacancies on the board shall be filled in the same manner as the original appointment for the unexpired portion of the term.

6. The commissioner may require an entity that recommends persons for appointment to submit additional lists of recommended appointees.

(g) A reinsuring carrier may reinsure with the program coverage of an eligible employee of a small employer, or any dependent of such an employee, subject to each of the following provisions:

1. With respect to a standard and basic health care plan, the program must reinsure the level of coverage provided; and, with respect to any other plan, the program must reinsure the coverage up to, but not exceeding, the level of coverage provided under the standard and basic health care plan.

2. Except in the case of a late enrollee, a reinsuring carrier may reinsure an eligible employee or dependent within 60 days after the commencement of the coverage of the small employer. A newly employed eligible employee or dependent of a reinsured small employer may be reinsured within 60 days after the commencement of his coverage.

3. A small employer carrier may reinsure an entire employer group within 60 days after the commencement of the group's coverage under the plan. The carrier may choose to reinsure newly eligible employees and dependents of the reinsured group pursuant to subparagraph 1.

4. The program may not reimburse a participating carrier with respect to the claims of a reinsured employee or dependent until the carrier has paid incurred claims of at least \$5,000 in a calendar year for benefits covered by the program. In addition, the reinsuring carrier shall be responsible for 10 percent of the next \$50,000 and 5 percent of the next \$100,000 of incurred claims during a calendar year and the program shall reinsure the remainder.

5. The board annually shall adjust the initial level of claims and the maximum limit to be retained by the carrier to reflect increases in costs and utilization within the standard market for health benefit plans within the state. The adjustment shall not be less than the annual change in the medical component of the "Consumer Price Index for All Urban Consumers" of the Bureau of Labor Statistics of the Department of Labor, unless the board proposes and the department approves a lower adjustment factor.

6. A small employer carrier may terminate reinsurance for all reinsured employees or dependents on any plan anniversary.

7. The premium rate charged for reinsurance by the program to a health maintenance organization that is approved by the Secretary of Health and Human Services as a federally qualified health maintenance organization pursuant to 42 U.S.C. s. 300e(c)(2)(A) and that, as such, is subject to requirements that limit the amount of risk that may be ceded to the program, which requirements are more restrictive than subparagraph 4., shall be reduced by an amount equal to that portion of the risk, if any, which exceeds the amount set forth in subparagraph 4. which may not be ceded to the program.

8. The board may consider adjustments to the premium rates charged for reinsurance by the program for carriers that use effective cost-containment measures, including high-cost case management, as defined by the board.

9. A reinsuring carrier shall apply its case-management and claims-handling techniques, including, but not limited to, utilization review, individual case management, preferred provider provisions, other managed-care provisions or methods of operation, consistently with both reinsured business and nonreinsured business.

(j)1. Prior to March 1 of each calendar year, the board shall determine and report to the department the program net loss for the previous year, including administrative expenses for that year, and the incurred losses for the year, taking into account investment income and other appropriate gains and losses.

2. Any net loss for the year shall be recouped by assessment of the carriers, as follows:

a. The operating losses of the program shall be assessed in the following order subject to the specified limitations. The first tier of assessments shall be made against reinsuring carriers in an amount which shall not exceed 5 percent of each reinsuring carrier's premiums from health benefit plans covering small employers. If such assessments have been collected and additional moneys are needed, the board shall make a second tier of assessments in an amount which shall not exceed .5 percent of each carrier's health benefit plan premiums. Risk assuming carriers are exempt from all assessments authorized pursuant to this section. The amount paid by a reinsuring carrier for the first tier of assessment shall be credited against any additional assessments made.

b. The board shall equitably assess carriers based on market share. The board shall annually assess each carrier insurer a portion of the operating losses of the plan. The first tier of assessments shall be determined by multiplying the operating losses by a fraction, the numerator of which equals the reinsuring carrier's insurer's earned premium pertaining to direct writings of small employer health benefit plans in the state during the calendar year preceding that for which the assessment is levied, and the denominator of which equals the total of all such premiums earned by reinsuring carriers insurers in the state during that calendar year. The second tier of assessments shall be based on the premiums that all carriers, except risk-assuming carriers, earned on all health benefit plans written in this state. The board may levy interim assessments against carriers insurers to ensure the financial ability of the plan to cover claims expenses and administrative expenses paid or estimated to be paid in the operation of the plan for the calendar year prior to the association's anticipated receipt of annual assessments for that calendar year. Any interim assessment is due and payable within 30 days after receipt by a carrier an insurer of the interim assessment notice. Interim assessment payments shall be credited against the carrier's insurer's annual assessment. Health benefit plan premiums and benefits paid by a carrier that are less than an amount determined by the board to justify the cost of collection may not be considered for purposes of determining assessments.

c. Subject to the approval of the department, the board shall make an adjustment to the assessment formula for reinsuring carriers that are approved as federally qualified health maintenance organizations by the Secretary of Health and Human Services pursuant to 42 U.S.C. s. 300e(c)(2)(A) to the extent, if any, that restrictions are placed on them that are not imposed on other small employer carriers.

3. Prior to March 1 of each year, the board shall determine and file with the department an estimate of the assessments needed to fund the losses incurred by the program in the previous calendar year.

4. If the board determines that the assessments needed to fund the losses incurred by the program in the previous calendar year will exceed the amount specified in subparagraph 2., the board shall evaluate the operation of the program and reports its findings, including any recommendations for changes to the plan of operation, to the department within 90 days following the end of the calendar year in which the losses were incurred. The evaluation shall include an estimate of future assessments, the administrative costs of the program, the appropriateness of the premiums charged and the level of carrier insurer retention under the program, and the costs of coverage for small employers. If the board fails to file report with the department within 90 days following the end of the applicable calendar year, the department may evaluate the operations of the program and implement such amendments to the plan of operation the department deems necessary to reduce future losses and assessments.

5. If assessments exceed the amount of the actual losses and administrative expenses of the program, the excess shall be held as interest and used by the board to offset future losses or to reduce program premiums. As used in this paragraph, the term "future losses" includes reserves for incurred but not reported claims.

6. Each carrier's proportion of the assessment shall be determined annually by the board, based on annual statements and other reports considered necessary by the board and filed by the carriers with the board.

7. Provision shall be made in the plan of operation for the imposition of an interest penalty for late payment of an assessment.

8. A carrier may seek, from the commissioner, a deferment, in whole or in part, from any assessment made by the board. The department may defer, in whole or in part, the assessment of a carrier if, in the opinion of the department, the payment of the assessment would place the carrier in a financially impaired condition. If an assessment against a carrier is deferred, in whole or in part, the amount by which the assessment is deferred may be assessed against the other carriers in a manner consistent with the basis for assessment set forth in this section. The carrier receiving such deferment remains liable to the program for the amount deferred and is prohibited from reinsuring any individuals or groups in the program if it fails to pay assessments.

(9) STANDARD, BASIC, AND LIMITED HEALTH BENEFIT PLANS.—

(b)1. Each small employer carrier issuing new health benefit plans shall offer to any small employer, upon request, a standard health benefit plan and a basic health benefit plan that meets the criteria set forth in this section.

2. For purposes of this subsection, the terms "standard health benefit plan" and "basic health benefit plan" mean policies or contracts that a small employer carrier offers to eligible small employers that contain:

a. An exclusion for services that are not medically necessary or that are not covered preventive health services; and

b. A procedure for preauthorization by the small employer carrier, or its designees.

3. A small employer carrier may include the following managed-care provisions in the policy or contract to control costs:

a. A preferred provider arrangement or exclusive provider organization or any combination thereof, in which a small employer carrier enters into a written agreement with the provider to provide services at specified levels of reimbursement or to provide reimbursement to specified providers. Any such written agreement between a provider and a small employer carrier must contain a provision under which the parties agree that the insured individual or covered member has no obligation to make payment for any medical service rendered by the provider which is determined not to be medically necessary.

b. A procedure for utilization review by the small employer carrier or its designees.

This subparagraph does not prohibit a small employer carrier from including in its policy or contract additional managed-care and cost-containment provisions, subject to the approval of the department, which have potential for controlling costs in a manner that does not result in inequitable treatment of insureds or subscribers.

4. ~~The standard health benefit plan must provide a level of benefits whereby the small employer carrier agrees to pay 80 percent of the covered costs incurred by the insured, subscriber, or dependent, during the policy or contract year, after the deductible has been satisfied, for the first \$10,000 of covered benefits, after which the carrier shall pay 90 percent of the covered costs incurred by such person in the policy year. However, if the insured, subscriber, or dependent is under a case management program of the small employer carrier, the carrier shall pay 100 percent of the covered costs incurred by such person in the policy year.~~

4.5. The standard health benefit plan shall include:

a. Coverage for inpatient hospitalization;

b. Coverage for outpatient services;

c. Coverage for newborn children pursuant to s. 627.6575;

d. Coverage for child care supervision services pursuant to s. 627.6579;

e. Coverage for adopted children upon placement in the residence pursuant to s. 627.6578;

f. Coverage for mammograms pursuant to s. 627.6613;

g. Coverage for handicapped children pursuant to s. 627.6615; and

h. Emergency or urgent care out of the geographic service area.

5.6. The standard health benefit plan and the basic health benefit plan may include a schedule of benefit limitations for specified services and procedures. If the committee develops such a schedule of benefits limitation for the standard health benefit plan or the basic health benefit plan, a small employer carrier offering the plan must offer the employer an option for increasing the benefit schedule amounts by 4 percent annually.

6.7. The basic health benefit plan shall include all of the benefits specified in subparagraph 5.; however, the basic health benefit plan shall place additional restrictions on the benefits and utilization and may also impose additional cost containment measures.

7.8. Sections 627.419(2), (3), and (4), 627.6574, 627.6616, 627.6618, and 627.668 apply to the standard health benefit plan and to the basic health benefit plan. However, notwithstanding said provisions, the plans may specify limits on the number of authorized treatments, if such limits are reasonable and do not discriminate against any type of provider.

8.9. Each *small employer carrier insurer* that provides for inpatient and outpatient services by allopathic hospitals may provide as an option of the insured similar inpatient and outpatient services by hospitals accredited by the American Osteopathic Association when such services are available and the osteopathic hospital agrees to provide the service.

Section 70. Section 627.677, Florida Statutes, is amended to read:

627.677 Definitions.—*As used in this part, the term:*

(1) "Credit life insurance" means insurance on the life of a debtor pursuant to or in connection with a specific loan or other credit transaction. There are three recognized forms:

(a) "Group credit life insurance" means insurance which is subject to the provisions of s. 627.553.

(b) "Franchise credit life insurance" means insurance by which a master policy is issued to and in favor of a creditor and under which debtors are insured at the option of the creditor.

(c) "Individual credit life insurance" means individual insurance upon the life of an individual debtor in favor of a creditor.

(2) "Credit disability insurance" means insurance under which a borrower of money or a purchaser or a lessee of goods is insured in connection with a specific loan or credit transaction against loss of time resulting from accident or sickness.

(3) "Creditor agent" means any lending or financing institution or other creditor, or a representative of such an institution or creditor, which writes credit life or disability insurance on the life or health of a debtor.

(4) "Consolidation" means any transaction in which a financial institution or servicer makes its premium collection services available to its debtors in connection with a particular insurer's ("new insurer") offer of credit insurance, which offer is made to debtors who, immediately prior to the offer, had credit insurance with another insurer ("old insurer") and were paying premiums for that insurance on a monthly or other regular basis.

(5) "Financial institution" or "servicer" means any entity or organization that services loans or credit obligations by collecting and accounting for payments.

(6) "Loan transfer" means a transaction in which the servicing of a block of loans or credit obligations is transferred from one servicer to another.

(7) "New coverage" or "new plan" means the credit insurance coverage or credit insurance plan for which the financial institution collects premiums beginning on the effective date of consolidation.

(8) "Old coverage" or "old plan" means the credit insurance coverage or credit insurance plan the insured debtor had or participated in immediately prior to the consolidation.

Section 71. Section 627.6841, Florida Statutes, is created to read:

627.6841 Credit insurance consolidations; general requirements.—An insurer may not participate in any consolidation unless it complies with all of the following requirements:

(1) The offer of new coverage must be made on a timely basis as follows:

(a) In a consolidation conducted in connection with a loan transfer, the offer of new coverage to the prospective insured must be made as soon as reasonably possible. If the offer of new coverage is not made within 30 days after the loan transfer, or at least 30 days before the proposed effective date of the new coverage, the insurer must notify the debtor, in writing, that he has the right to an unconditional refund of all premiums paid for the new coverage if he exercises that right, in writing, within 30 days after the date of the notification.

(b) In all other consolidations, the offer of new coverage must be made to the prospective insured at least 30 days prior to the proposed effective date of the new coverage. If the offer is not made at least 30 days in advance, the insurer must notify the debtor, in writing, that he has the right to an unconditional refund of all premiums paid for the new coverage if he exercises that right, in writing, within 30 days after the date of the notification.

(2) A group certificate or individual policy must be delivered to each debtor insured under the new plan. In addition to complying with all other applicable requirements of this code, the group certificate or individual policy must include all of the following information:

- (a) The name or names of the single or joint insureds.
- (b) Identification of the insured indebtedness.
- (c) The amount of insurance under the new plan.
- (d) The premium for the new coverage.
- (e) The effective date of the new coverage.
- (f) The beneficiary for the new coverage.

(3) A group certificate or individual policy evidencing the new coverage may not include a contestability clause or, in the case of life insurance, a provision excluding suicide.

(4) Except as provided in s. 627.6842, the new coverage must be effectuated for the prospective insured only after the new insurer receives an application which has been signed by the prospective insured.

(5) Except as provided in s. 627.6842, the new insurer must calculate premiums for the new coverage on the basis of its own rates, the prospective insured's then-attained age, if applicable, and the amount of insurance offered.

(6) Except for consolidations conducted in connection with a loan transfer, the new insurer must send written notice to the old insurer of its intent to conduct a consolidation at least 30 days before the effective date of the consolidation. The notice may be made on behalf of the new insurer by the financial institution or servicer.

(7) Each insurer must maintain a list of certificateholders insured under each group credit insurance plan, which list must be provided upon request to the servicer that collects premiums for the plan.

Section 72. Section 627.6842, Florida Statutes, is created to read:

627.6842 Group-to-group consolidations.—If both the old coverage and the new coverage are provided under group policies:

(1) A signed application need not be obtained if all of the following apply:

- (a) The premium for the new plan is the same as or less than the premium for the old plan.
- (b) The amount of insurance and the level of benefits provided by the new plan are the same as or greater than under the old plan, and the age restrictions of the new plan, if any, are at least as favorable to the insured as those provided under the old plan.

(c) The maximum term of insurance under the new plan is as long as or longer than the maximum term of insurance under the old plan.

(d) There is a clear disclosure to the prospective insured that payment of the required premium constitutes acceptance of the offer.

(2) If an insurer charges insureds the same premium for the new coverage as they were paying for their old coverage, and, as a result, insured

debtors of a financial institution are charged different premium rates for the same coverage, such rate differences do not constitute unfair rate discrimination under s. 626.9541.

Section 73. Section 627.6843, Florida Statutes, is created to read:

627.6843 Consolidation disclosure requirements.—

(1) In conjunction with any offer of new coverage made in any consolidation, the new insurer must disclose in writing to each prospective insured all of the following:

- (a) That the insured debtor may have the right to continue or convert his old coverage by paying premiums directly to the old insurer.
- (b) That the offer of new coverage is not conditioned upon either the termination or the replacement of the old coverage.
- (c) The name and address of the old insurer and the new insurer.
- (d) The effective date of the new coverage.
- (e) The beneficiary of the new coverage.
- (f) Whether premium rates under the new plan are guaranteed.

(g) The amount of coverage for both the new plan and the old plan; or, if the amount of coverage for the old plan is not known, a statement that the amount may be scheduled and it may be less than or greater than the amount of the loan, and that the insured should check the policy schedule for an exact amount of coverage.

(h) Material differences, if any, between the new plan and the old plan.

(i) A statement as to whether the old plan was an individual or group plan and a statement as to whether the new plan is an individual or group plan.

(j) A consumer information phone number to call with questions regarding the consolidation.

(2) Disclosures required under this part may be made on behalf of the new insurer by the financial institution.

Section 74. Section 627.6844, Florida Statutes, is created to read:

627.6844 Replacement rules.—Group-to-group consolidations are exempt from any rule of the department relating to the replacement of existing life or health insurance. Sections 627.6841-627.6845 do not create an exemption from any such rule for consolidations that involve individual policies.

Section 75. Section 627.6845, Florida Statutes, is created to read:

627.6845 Policy forms used in connection with consolidations.—A policy or group certificate of credit insurance used in connection with any consolidation, or an application, endorsement, or rider which becomes a part of any such policy or certificate, may not be issued or delivered in this state until a copy of the form has been filed with and approved by the department pursuant to s. 627.682.

Section 76. Section 627.7061, Florida Statutes, is created to read:

627.7061 Coverage inquiries.—Inquiries about coverage on a property insurance contract are not claim activity, unless an actual claim is filed by the insured that results in a company investigation of the claim.

Section 77. Section 627.727, Florida Statutes, is amended to read:

627.727 Motor vehicle insurance; uninsured and underinsured vehicle coverage; insolvent insurer protection.—

(1) No motor vehicle liability insurance policy which provides bodily injury liability coverage shall be delivered or issued for delivery in this state with respect to any specifically insured or identified motor vehicle registered or principally garaged in this state unless uninsured motor vehicle coverage is provided therein or supplemental thereto for the protection of persons insured thereunder who are legally entitled to recover damages from owners or operators of uninsured motor vehicles because of bodily injury, sickness, or disease, including death, resulting therefrom. However, the coverage required under this section is not applicable when, or to the extent that, an insured named in the policy makes a written rejection of the coverage on behalf of all insureds under the policy. When a motor vehicle is leased for a period of 1 year or longer and the lessor of

such vehicle, by the terms of the lease contract, provides liability coverage on the leased vehicle, the lessee of such vehicle shall have the sole privilege to reject uninsured motorist coverage or to select lower limits than the bodily injury liability limits, regardless of whether the lessor is qualified as a self-insurer pursuant to s. 324.171. Unless an insured, or lessee having the privilege of rejecting uninsured motorist coverage, requests such coverage or requests higher uninsured motorist limits in writing, the coverage or such higher uninsured motorist limits need not be provided in or supplemental to any other policy which renews, extends, changes, supersedes, or replaces an existing policy with the same bodily injury liability limits when an insured or lessee had rejected the coverage. When an insured or lessee has initially selected limits of uninsured motorist coverage lower than his bodily injury liability limits, higher limits of uninsured motorist coverage need not be provided in or supplemental to any other policy which renews, extends, changes, supersedes, or replaces an existing policy with the same bodily injury liability limits unless an insured requests higher uninsured motorist coverage in writing. The rejection or selection of lower limits shall be made on a form approved by the Insurance Commissioner. The form shall fully advise the applicant of the nature of the coverage and shall state that the coverage is equal to bodily injury liability limits unless lower limits are requested or the coverage is rejected. The heading of the form shall be in 12-point bold type and shall state: "You are electing not to purchase certain valuable coverage which protects you and your family or you are purchasing uninsured motorist limits less than your bodily injury liability limits when you sign this form. Please read carefully." If this form is signed by a named insured, it will be conclusively presumed that there was an informed, knowing rejection of coverage or election of lower limits on behalf of all insureds. The insurer shall notify the named insured at least annually of his options as to the coverage required by this section. Such notice shall be part of, and attached to, the notice of premium, shall provide for a means to allow the insured to request such coverage, and shall be given in a manner approved by the department. Receipt of this notice does not constitute an affirmative waiver of the insured's right to uninsured motorist coverage where the insured has not signed a selection or rejection form. The coverage described under this section shall be over and above, but shall not duplicate, the benefits available to an insured under any workers' compensation law, personal injury protection benefits, disability benefits law, or similar law; under any automobile medical expense coverage; under any motor vehicle liability insurance coverage; or from the owner or operator of the uninsured motor vehicle or any other person or organization jointly or severally liable together with such owner or operator for the accident; and such coverage shall cover the difference, if any, between the sum of such benefits and the damages sustained, up to the maximum amount of such coverage provided under this section. The amount of coverage available under this section shall not be reduced by a setoff against any coverage, including liability insurance. Such coverage shall not inure directly or indirectly to the benefit of any workers' compensation or disability benefits carrier or any person or organization qualifying as a self-insurer under any workers' compensation or disability benefits law or similar law.

(2) The limits of uninsured motorist coverage shall be not less than the limits of bodily injury liability insurance purchased by the named insured, or such lower limit complying with the rating plan of the company as may be selected by the named insured. The limits set forth in this subsection, and the provisions of subsection (1) which require uninsured motorist coverage to be provided in every motor vehicle policy delivered or issued for delivery in this state, do not apply to any policy which does not provide primary liability insurance that includes coverage for liabilities arising from the maintenance, operation, or use of a specifically insured motor vehicle. However, an insurer issuing such a policy shall make available as a part of the application for such policy, and at the written request of an insured, limits up to the bodily injury liability limits contained in such policy or \$1 million, whichever is less.

(3) For the purpose of this coverage, the term "uninsured motor vehicle" shall, subject to the terms and conditions of such coverage, be deemed to include an insured motor vehicle when the liability insurer thereof:

(a) Is unable to make payment with respect to the legal liability of its insured within the limits specified therein because of insolvency; or

(b) Has provided limits of bodily injury liability for its insured which are less than the total damages sustained by the person legally entitled to recover damages; or

(c) Excludes liability coverage to a nonfamily member whose operation of an insured vehicle results in injuries to the named insured or to a relative of the named insured who is a member of the named insured's household.

(4) An insurer's insolvency protection shall be applicable only to accidents occurring during a policy period in which its insured's uninsured motorist coverage is in effect when the liability insurer of the tortfeasor becomes insolvent within 4 years after such an accident. Nothing herein contained shall be construed to prevent any insurer from affording insolvency protection under terms and conditions more favorable to its insureds than is provided hereunder.

(5) Any person having a claim against an insolvent insurer as defined in s. 631.54(6) under the provisions of this section shall present such claim for payment to the Florida Insurance Guaranty Association only. In the event of a payment to any person in settlement of a claim arising under the provisions of this section, the association is not subrogated or entitled to any recovery against the claimant's insurer. The association, however, has the rights of recovery as set forth in chapter 631 in the proceeds recoverable from the assets of the insolvent insurer.

(6) If an injured person or, in the case of death, the personal representative agrees to settle a claim with a liability insurer and its insured for the limits of liability, and such settlement would not fully satisfy the claim for personal injuries or wrongful death so as to create an underinsured motorist claim against the underinsured motorist insurer, then such settlement agreement shall be submitted in writing to the underinsured motorist insurer, which shall have a period of 30 days from receipt thereof in which to agree to arbitrate the underinsured motorist claim and approve the settlement, waive its subrogation rights against the liability insurer and its insured, and authorize the execution of a full release. If the underinsured motorist insurer does not agree within 30 days to arbitrate the underinsured motorist claim and approve the proposed settlement agreement, waive its subrogation rights against the liability insurer and its insured, and authorize the execution of a full release, the injured person or, in the case of death, the personal representative may file suit joining the liability insurer's insured and the underinsured motorist insurer to resolve their respective liabilities for any damages to be awarded; however, in such action, the liability insurer's coverage must first be exhausted before any award may be entered against the underinsured motorist insurer, and any such award against the underinsured motorist insurer shall be excess and subject to the provisions of subsection (1). Any award in such action against the liability insurer's insured is binding and conclusive as to the injured person and underinsured motorist insurer's liability for damages up to its coverage limits. If an insurer has an arbitration clause in its policy and elects arbitration, the arbitration decision is binding and the insurer has no recourse to civil action.

(7) The legal liability of an uninsured motorist coverage insurer does not include damages in tort for pain, suffering, mental anguish, and inconvenience unless the injury or disease is described in one or more of paragraphs (a) through (d) of s. 627.737(2).

(8) The provisions of s. 627.428 do not apply to any action brought pursuant to this section against the uninsured motorist insurer unless there is a dispute over whether the policy provides coverage for an uninsured motorist proven to be liable for the accident.

(9) Insurers may offer policies of uninsured motorist coverage containing policy provisions, in language approved by the department, establishing that if the insured accepts this offer:

(a) The coverage provided as to two or more motor vehicles shall not be added together to determine the limit of insurance coverage available to an injured person for any one accident, except as provided in paragraph (c).

(b) If at the time of the accident the injured person is occupying a motor vehicle, the uninsured motorist coverage available to him is the coverage available as to that motor vehicle.

(c) If the injured person is occupying a motor vehicle which is not owned by him or by a family member residing with him, he is entitled to the highest limits of uninsured motorist coverage afforded for any one vehicle as to which he is a named insured or insured family member. Such coverage shall be excess over the coverage on the vehicle he is occupying.

(d) The uninsured motorist coverage provided by the policy does not apply to the named insured or family members residing in his household who are injured while occupying any vehicle owned by such insureds for which uninsured motorist coverage was not purchased.

(e) If, at the time of the accident the injured person is not occupying a motor vehicle, he is entitled to select any one limit of uninsured motorist coverage for any one vehicle afforded by a policy under which he is insured as a named insured or as an insured resident of the named insured's household.

In connection with the offer authorized by this subsection, insurers shall inform the named insured, applicant, or lessee, on a form approved by the department, of the limitations imposed under this subsection and that such coverage is an alternative to coverage without such limitations. If this form is signed by a named insured, applicant, or lessee, it shall be conclusively presumed that there was an informed, knowing acceptance of such limitations. When the named insured, applicant, or lessee has initially accepted such limitations, such acceptance shall apply to any policy which renews, extends, changes, supersedes, or replaces an existing policy unless the named insured requests deletion of such limitations and pays the appropriate premium for such coverage. Any insurer who provides coverage which includes the limitations provided in this subsection shall file revised premium rates with the department for such uninsured motorist coverage to take effect prior to initially providing such coverage. The revised rates shall reflect the anticipated reduction in loss costs attributable to such limitations but shall in any event reflect a reduction in the uninsured motorist coverage premium of at least 20 percent for policies with such limitations. Such filing shall not increase the rates for coverage which does not contain the limitations authorized by this subsection, and such rates shall remain in effect until the insurer demonstrates the need for a change in uninsured motorist rates pursuant to s. 627.0651.

(10) *The damages recoverable from an uninsured motorist carrier in an action brought under s. 624.155 include the total amount of the claimant's damages, as determined in the underlying proceeding, including the amount in excess of the policy limits, any interest on unpaid benefits, reasonable attorneys' fees and costs, and any damages caused by a violation of a statute. The total amount of the claimant's damages are recoverable whether caused by an insurer or by a third-party tortfeasor.*

Section 78. The purpose of subsection (10) of section 627.727, Florida Statutes, relating to damages, is to reaffirm existing legislative intent, and as such is remedial rather than substantive. Subsection (10) of section 627.727, Florida Statutes, serves only to reaffirm the original legislative intent and applies to all causes of action accruing after the effective date of section 624.155, Florida Statutes.

Section 79. Section 627.728, Florida Statutes, is amended, to read:

627.728 Cancellations; nonrenewals.—

(1) As used in this section, *the term*:

(a) "Policy" means the bodily injury and property damage liability, personal injury protection, medical payments, comprehensive, collision, and uninsured motorist coverage portions of a policy of motor vehicle insurance delivered or issued for delivery in this state:

1. Insuring a natural person as named insured or one or more related individuals resident of the same household; and

2. Insuring only a motor vehicle of the private passenger type or station wagon type which is not used as a public or livery conveyance for passengers or rented to others; or insuring any other four-wheel motor vehicle having a load capacity of 1,500 pounds or less which is not used in the occupation, profession, or business of the insured other than farming; other than any policy issued under an automobile insurance assigned risk plan; insuring more than four automobiles; or covering garage, automobile sales agency, repair shop, service station, or public parking place operation hazards.

The term "policy" does not include a binder as defined in s. 627.420 unless the duration of the binder period exceeds 60 days.

(b) "Renewal" or "to renew" means the issuance and delivery by an insurer of a policy superseding at the end of the policy period a policy previously issued and delivered by the same insurer, or the issuance and delivery of a certificate or notice extending the term of a policy beyond

its policy period or term. Any policy with a policy period or term of less than 6 months or any policy with no fixed expiration date shall for the purpose of this section be considered as if written for successive policy periods or terms of 6 months.

(c) "Nonpayment of premium" means failure of the named insured to discharge when due any of his obligations in connection with the payment of premiums on a policy or any installment of such premium, whether the premium is payable directly to the insurer or its agent or indirectly under any premium finance plan or extension of credit, or failure to maintain membership in an organization if such membership is a condition precedent to insurance coverage.

(2) No notice of cancellation of a policy shall be effective unless it is based on one or more of the following grounds:

(a) Nonpayment of premium.

(b) Material misrepresentation or fraud.

(c) The driver's license or motor vehicle registration of the named insured or of any other operator who either resides in the same household or customarily operates an automobile insured under the policy has been under suspension or revocation during the policy period or the 180 days immediately preceding its effective date or, if the policy is a renewal, during its policy period. This subsection shall not apply to any policy which has been in effect less than 60 days at the time notice of cancellation is mailed or delivered by the insurer unless it is a renewal policy. Nothing in this subsection shall apply to nonrenewal.

(3)(a) No notice of cancellation of a policy to which this section applies shall be effective unless mailed or delivered by the insurer to the named insured and to the named insured's insurance agent at least 45 days prior to the effective date of cancellation, except that, when cancellation is for nonpayment of premium, at least 10 days' notice of cancellation accompanied by the reason therefor shall be given. No notice of cancellation of a policy to which this section applies shall be effective unless the reason or reasons for cancellation accompany the notice of cancellation.

(b) Nothing in this subsection shall apply to nonrenewal.

(c) Nothing in this subsection shall apply in cases in which the premium has been financed and the premium finance company has complied with the notice provisions of s. 627.848.

(4)(a) No insurer shall fail to renew a policy unless it mails or delivers to the named insured, at the address shown in the policy, and to the named insured's insurance agent at his business address, at least 45 days' advance notice of its intention not to renew; and the reasons for refusal to renew must accompany such notice. This subsection does not apply:

1. If the insurer has manifested its willingness to renew; or
2. In case of nonpayment of premium.

Notwithstanding the failure of an insurer to comply with this subsection, the policy shall terminate on the effective date of any other automobile liability insurance policy procured by the insured with respect to any automobile designated in both policies. Unless a written explanation for refusal to renew accompanies the notice of intention not to renew, the policy shall remain in full force and effect.

(b) Renewal of a policy shall not constitute a waiver or estoppel with respect to grounds for cancellation which existed before the effective date of such renewal.

(c) No insurer shall fail to renew a policy for reasons based entirely on the sex, occupation, marital status, residence, military service, or age of the insured, or on the principal place of garaging the insured vehicle in this state, or based on any combination of such factors. No insurer shall fail to renew a policy for reasons based on the race, color, creed, or national origin of the insured or for any reason which is arbitrary or capricious.

(d) *Instead of canceling or nonrenewing a policy, an insurer may, upon expiration of the policy term, transfer a policy to another insurer under the same ownership or management as the transferring insurer, by giving the named insured at least 45 days advance notice of its intent to transfer the policy and of the premium and the specific reasons for any increase in the premium.*

(5) United States postal proof of mailing or certified or registered mailing of notice of cancellation, of intention not to renew, or of reasons for cancellation, or of the intention of the insurer to issue a policy by an insurer under the same ownership or management, to the named insured at the address shown in the policy shall be sufficient proof of notice.

(6) When a policy is canceled, other than for nonpayment of premium, or in the event of failure to renew a policy to which subsection (4) applies, the insurer shall notify the named insured of his possible eligibility for insurance through the Automobile Joint Underwriting Association. Such notice shall accompany or be included in the notice of cancellation or the notice of intent not to renew and shall state that such notice of availability of the Automobile Joint Underwriting Association is given pursuant to this section.

(7) Except in the case of cancellation for nonpayment of premium or nonrenewal of the policy, the notice of cancellation as provided by this section must contain the following words which are to be prominently displayed: "You are permitted by law to appeal this cancellation. An appeal must be filed no later than 20 days before the effective date of cancellation set forth in this notice. Forms for such appeal and the regulations pertaining thereto may be obtained from the offices of the Department of Insurance. The Department of Insurance does not have the authority to extend the effective date of cancellation; therefore you should obtain replacement coverage prior to the effective date of cancellation."

(8)(7)(a) Within 2 working days after receipt of a timely appeal of the notice of cancellation request for a hearing, the department shall initiate a proceeding call a hearing upon 10 days' notice to the parties. If informal procedures fail to resolve the appeal, the department shall, upon request of the insured, call a hearing upon 10 days' notice to the parties to be held by a disinterested employee of the department. Proceedings pursuant to this subsection are not subject to the provisions of chapter 120.

(b) Each insurer subject to this section shall maintain on file with the department the name and address of the person authorized to receive notices pursuant to this section on behalf of the insurer.

(c) The department shall, at the conclusion of the proceeding or hearing or not later than 2 working days thereafter, issue its written findings to the parties; and, if it finds for the named insured, it shall assess the insurer \$7.50 to defray the cost of the hearing and shall refund the \$7.50 filing fee to the named insured, and it shall either order the insurer to rescind its notice of cancellation or, if the date cancellation is to be effective has elapsed, order the policy reinstated from the date of cancellation, and such coverage shall be continuous to, and shall operate prospectively from, the date of cancellation. However, no policy shall be reinstated while the named insured is in arrears in payment of premium on such policy. If the department finds for the insurer, its written findings order shall so state, and it shall assess the named insured \$7.50 and apply the named insured's \$7.50 filing fee against the assessment to defray the cost of the hearing.

(d) Reinstatement of a policy under this subsection shall not operate in any way to extend the expiration, termination, or anniversary date provided in the policy. Upon such reinstatement, costs and attorney's fees may be assessed by the department and paid to the named insured by an insurer who has wrongfully canceled or wrongfully refused to renew a policy, as determined by the proceeding or hearing provided for in paragraph (c).

(9)(8) The department shall deposit all filing fees provided for in this section into the Insurance Commissioner's Regulatory Trust Fund.

(10)(9) No cause of action in the nature of defamation, invasion of privacy, or negligence shall arise against any person for disclosing personal or privileged information in accordance with this section, nor shall such a cause of action arise against any person for furnishing personal or privileged information to an insurance institution, agent, or insurance-support organization; however, this section shall provide no immunity for disclosing or furnishing false information through gross negligence or with malice or willful intent to injure any person.

(11) Except in the case of cancellation for nonpayment of premium, the notice of cancellation as provided by this section shall contain the following words which are to be prominently displayed: "You are permitted by law to appeal this cancellation. Appeal should be filed before the effective date of cancellation set forth in this notice. Forms for such appeal

and the regulations pertaining thereto may be obtained from the offices of the Department of Insurance. Appeals must be accompanied by a deposit. You or the company may be charged with the costs of the appeal, depending on the outcome."

(11) There shall be no liability on the part of, and no cause of any action of any nature shall arise against, any insurer or its authorized representatives, agents, or employees of any firm, person, or corporation furnishing to the insurer or insured information as to reasons for cancellation or refusal to renew, for any statement made by any of them in any written notice of cancellation or refusal to renew, for the providing of information pertaining thereto, or for statements made or evidence submitted at any hearing conducted in connection therewith; provided that this subsection shall provide no immunity for disclosing or furnishing false information through gross negligence or with malice or willful intent to injure any person.

Section 80. Section 627.7283, Florida Statutes, is amended to read:

627.7283 Cancellation by insured; return of premium.—

(1) If the insured or insurer cancels a policy of motor vehicle insurance, the insurer must shall return the unearned portion of any premium paid within 30 days after issuance or of receipt by the insurer of notice of cancellation. If the unearned premium is not returned within the 30-day such period, the insurer must shall pay 8 percent interest on the amount due. If the unearned premium is not returned and, if such return is not made within 45 days after receipt of the of such notice, the insured may bring an action against the insurer pursuant to s. 624.155.

(2) If the insured cancels, the insurer may retain up to 10 percent of the unearned premium and must refund at least 90 percent of the unearned premium. If the insurer cancels, the insurer must refund 100 percent of the unearned premium. Cancellation is without prejudice to any claim originating prior to the effective date of the cancellation. For purposes of this section, unearned premiums must be computed on a pro rata basis.

Section 81. Section 627.7295, Florida Statutes, is amended to read:

627.7295 Motor vehicle insurance contracts.—

(1) As used in For the purpose of this section, the term:

(a) "Policy" means shall mean a motor vehicle insurance policy that which provides personal injury protection and property damage liability coverage.

(b) "Binder" means a binder that provides motor vehicle personal injury protection and property damage liability coverage. Notwithstanding the provisions of s. 627.420, for the purposes of this section "policy" shall include a binder.

(2) A No policy may not shall be issued for a term of less than 6 months unless it is:

(a) Issued to achieve common expiration dates; or

(b) Issued to complete the unexpired portion of a previous policy period.

(3) Except as provided in s. 627.7282, an insured may not cancel a policy or binder no policy may be canceled by the insured during the first two months immediately following the effective date of the policy except:

(a) Upon total destruction of the insured motor vehicle;

(b) Upon transfer of ownership of the insured motor vehicle; or

(c) After purchase of another policy or binder covering the motor vehicle that which was covered under the policy being canceled.

(4) The insurer may cancel the policy in accordance with this code except that, notwithstanding s. 627.728, an insurer may shall not cancel a new policy or binder during the first two months immediately following the effective date of the policy or binder for nonpayment of premium unless the reason for the cancellation is the issuance of a check for the premium that which is dishonored for any reason.

(5) A licensed general lines agent may charge a per-policy fee not to exceed \$10 to cover the administrative costs of the agent associated with selling the motor vehicle insurance policy if provided the policy covers only personal injury protection coverage as provided by s. 627.736 and

property damage liability coverage as provided by s. 627.7275 and ~~if further provided that~~ no other insurance is sold or issued in conjunction with or collateral to the policy. The per-policy fee ~~must~~ *shall* be a component of the insurer's rate filing and may not be charged by an agent unless the fee is included in the filing. The fee ~~is~~ *shall* not be considered ~~to be~~ part of the premium except for purposes of the department's review of expense factors in a filing made pursuant to s. 627.062 ~~627.0651~~.

(6) ~~If in the event~~ a motor vehicle owner's driver license, license plate tag, and registration have previously been suspended pursuant to s. 316.646 or s. 627.733, an insurer may only cancel a new policy *only as provided in accordance with the provisions of* s. 627.7275.

Section 82. Subsection (10) of section 627.736, Florida Statutes, is amended to read:

627.736 Required personal injury protection benefits; exclusions; priority.—

(10) An insurer may negotiate and enter into contracts with licensed health care providers for the benefits described in this section, referred to in this section as "preferred providers," which shall include health care providers licensed under chapters 458, 459, 460, 461, and 463. The insurer may provide an option to an insured to use a preferred provider at the time of purchase of the policy for personal injury protection benefits, *if the requirements of this subsection are met that medical services are sought by the insured for the benefits described in this section.* If the insured elects to use a provider who is not a preferred provider, *whether the insured purchased a preferred provider policy or a nonpreferred provider policy* the medical benefits provided by the insurer shall be as required by this section. If the insured elects to use a provider who is a preferred provider, the insurer may pay medical benefits in excess of the benefits required by this section and may waive or lower the amount of any deductible that applies to such medical benefits. *If the insurer offers a preferred provider policy to a policyholder or applicant, it must also offer a nonpreferred provider policy. The insurer may not require a policyholder or applicant to make any election in this regard at the time of purchase of the policy or at any time other than at the time that medical services are sought.* The insurer shall provide each policyholder with a current roster of preferred providers in the county in which the insured resides at the time of purchase of such policy, and shall make such list available for public inspection during regular business hours at the principal office of the insurer within the state.

Section 83. Section 627.744, Florida Statutes, is amended to read:

627.744 Required preinsurance inspection of private passenger motor vehicles.—

(1) A ~~No~~ private passenger motor vehicle insurance policy providing physical damage coverage, including collision or comprehensive coverage, may *not* be issued in this state unless the insurer has inspected the motor vehicle in accordance with this section.

(2) This section does not apply to the following:

(a) To a ~~new~~ policy for a policyholder who has been insured for 2 3 years or longer, without interruption, under a private passenger motor vehicle policy which provides physical damage coverage, *if the agent of the insurer verifies the previous coverage issued by the same insurer.*

(b) To a new, unused motor vehicle purchased from a licensed motor vehicle dealer or leasing company ~~automobile dealership~~, if the insurer is provided with:

1. A bill of sale or buyer's order which contains a full description of the motor vehicle, including all options and accessories; or

2. A copy of the title which establishes transfer of ownership from the dealer or leasing company to the customer and a copy of the window sticker or the dealer invoice showing the itemized options and equipment and the total retail price of the vehicle.

For the purposes of this paragraph, the physical damage coverage on the ~~such~~ motor vehicle may ~~shall~~ not be suspended during the term of the policy due to the applicant's failure to provide the required documents. However, payment of a claim ~~is~~ *shall* be conditioned upon the receipt by the insurer of the ~~required~~ *required* such documents, and no physical damage loss occurring after the effective date of the coverage ~~is~~ *shall* be payable until the documents are provided to the insurer.

(c) To a temporary substitute motor vehicle.

(d) To a motor vehicle which is leased for less than 6 months, if the insurer receives the lease or rental agreement containing a description of the leased motor vehicle, including its condition. Payment of a physical damage claim ~~is~~ *shall* be conditioned upon receipt of the lease or rental agreement.

(e) To a vehicle that is ~~Vehicles~~ 10 years old or older, as determined by reference to the model year.

(f) To any renewal policy.

(g) To a motor vehicle policy issued in a county with a 1988 estimated population of less than 500,000.

(h) To any other vehicle or policy exempted by rule of the department. ~~The department may base a rule under this paragraph only on such other exemptions as the department may, by rule, allow, based upon a determination that the likelihood of a fraudulent physical damage claim is remote or that the inspection would cause a serious hardship to the insurer or the applicant.~~

(i) When the insurer's authorized inspection service has no inspection facility either in the municipality in which the automobile is principally garaged or within 10 miles of such municipality.

(j) When the insured vehicle is insured under a commercially rated policy that insures five or more vehicles.

(k) When an insurance producer is transferring a book of business from one insurer to another.

(l) When an individual insured's coverage is being transferred and initiated by a producer to a new insurer.

(3) ~~This subsection does not~~ ~~Nothing in this subsection shall be deemed to prohibit an insurer from requiring a preinsurance inspection of any motor vehicle as a condition of issuance of physical damage coverage.~~

(4)(3) The inspection required by this section shall be provided by the insurer or by a person or organization authorized by the insurer. ~~The applicant may be required to pay the cost of the inspection, not to exceed \$5 at no cost to the applicant. The inspection shall be recorded on a form prescribed by the department, and the form or a copy shall be retained by the insurer with its policy records for the insured. The insurer shall provide a copy of the form; and a copy of such form shall be made available to the insured upon request. Any inspection fee paid directly by the applicant may not be considered part of the premium. However, an insurer that provides the inspection at no cost to the applicant may include the expense of the inspection within a rate filing.~~

(5) The inspection shall include at least the following:

(a) Taking a physical imprint of the vehicle identification number of the vehicle or otherwise recording the vehicle identification number in a manner prescribed by the department.

(b) Recording the presence of ~~such~~ accessories ~~as are~~ required by the department to be recorded.

(c) Recording the locations of and a description of existing damage to the vehicle.

(6)(4) An insurer may defer an inspection for 30 7 calendar days following the effective date of coverage for a new policy, but not for a renewal policy, and for additional or replacement vehicles to an existing policy, if an inspection at the time of the request for coverage would create a serious inconvenience for the applicant *and such hardship is documented in the insured's policy record.* ~~Failure to obtain the inspection within such time period shall result in suspension of the insurance coverage immediately following the time period, which consequences shall be disclosed to the applicant on a form prescribed by the department. Such suspension shall continue until the inspection is effected.~~

(7)(5) The department may, by rule, establish such procedures and notice requirements ~~that it finds as may be~~ necessary to implement this section.

(8) *The department must conduct a study of the preinsurance inspection program detailing any cost savings to the consumer and insurance industry in this state, and must make recommendations concerning the program to the President of the Senate, the Speaker of the House of Representatives, the Majority and Minority Leaders of the*

Senate and the House of Representatives, and the committees of each house having jurisdiction over insurance matters, on or before January 15, 1994.

Section 84. Section 627.745, Florida Statutes, is amended to read:

627.745 Mediation of claims.—

(1)(a) In any claim filed with an insurer for personal injury in an amount of \$10,000 or less or any a claim for property damage in any amount, arising out of the ownership, operation, use, or maintenance of a motor vehicle, either party may demand mediation of the claim prior to the institution of litigation.

(b) A request for mediation shall be filed with the department of Insurance on a form approved by the department. The request for mediation shall state the reason for the request for mediation and the issues in dispute which are to be mediated. The filing of a request for mediation ~~tolls shall toll~~ the applicable time requirements for filing suit for a period of 60 days following the conclusion of the mediation process or the time prescribed in s. 95.11, whichever is later.

(c) ~~With regard to first party claims, The insurance policy must specify in detail the terms and conditions for mediation of a first party claim shall be specified in detail in the policy contract.~~

(d) The mediation shall be conducted as an informal process in which and formal rules of evidence and procedure need not be observed. Any party participating in a mediation must have the authority to make a binding decision. All parties must mediate in good faith.

(e) The department shall randomly select mediators. Each party may ~~shall be permitted to~~ once reject the mediator selected, either originally or after the opposing side has exercised its option to reject a mediator.

(f) Costs of mediation shall be borne equally by both parties unless the mediator determines that one party has not mediated in good faith.

(g)(e) Only one mediation may be requested for each claim, unless all parties agree to further mediation.

(2) Upon receipt of a request for mediation, the department shall refer ~~the such~~ request to a mediator. The mediator shall notify the applicant and all interested parties, as identified by the applicant, and any other parties the mediator believes may have an interest in the mediation, of the date, time, and place of the mediation conference. The conference may be held by telephone, if feasible. The mediation conference shall be held within 45 days ~~after of~~ the request for mediation.

(3)(a) The department of Insurance shall appoint mediators to conduct mediations pursuant to this section.

(b) To qualify for appointment as a mediator, a person shall meet the following qualifications:

1. Possess a masters or doctorate degree in psychology, counseling, business, accounting, or economics, or be a member of The Florida Bar, be licensed as a certified public accountant, or demonstrate that the applicant for appointment has been actively engaged as a qualified mediator for at least 4 years prior to July 1, 1990.

2. Have completed a minimum of a 40-hour training program approved by the department and successfully passed an examination approved by the department. The training program shall include and address all of the following:

- a. Mediation theory.;
- b. Mediation process and techniques.;
- c. Standards of conduct for mediators.;
- d. Conflict management and intervention skills.;
- e. Insurance nomenclature.;
- ~~f. Successful completion of an examination.~~

~~The requirement of successful completion of a training program shall not take effect until 180 days after October 1, 1990.~~

(4) The department ~~must adopt of Insurance shall promulgate~~ rules of procedure for claims mediation, taking into consideration a system which:

- (a) Is fair.;
- (b) Promotes settlement.;
- (c) Avoids delay.;
- (d) Is nonadversarial.;
- (e) ~~Uses Utilizes~~ a framework for modern mediating technique.;
- (f) Controls costs and expenses of mediation.

(5) Disclosures and information divulged in the mediation process ~~are shall~~ not be admissible in any subsequent action or proceeding relating to the claim or to the cause of action giving rise to the claim ~~thereto~~. A person demanding mediation under this section ~~may shall not be entitled~~ to demand or request mediation after a suit is filed relating to the same facts already mediated.

Section 85. Section 627.756, Florida Statutes, is amended to read:

627.756 Bonds for construction contracts; attorney fees in case of suit.—

(1) Section 627.428 applies to suits brought by owners, subcontractors, laborers, and materialmen against a surety insurer under payment or performance bonds written by the insurer under the laws of this state to indemnify against pecuniary loss by breach of a building or construction contract. Owners, subcontractors, laborers, and materialmen shall be deemed to be insureds or beneficiaries for the purposes of this section.

(2) A surety who issues a bid, performance, or payment bond in connection with construction activities where hazardous substances exist or are discovered is liable under ss. 376.308 and 403.727 only to the extent provided in this subsection. In case of a default, the surety is liable only for the cost of completion of the contract work in accordance with the plans and specifications, less the balance of funds remaining to be paid under the contract, up to the penal sum of the bond. The surety is not liable on a bond to indemnify or compensate the obligee for loss or liability arising from personal injury or property damage, whether or not caused by a breach of the bonded contract. Further, a right of action does not accrue on a bond to or for the use of any person other than the obligee named in the bond.

Section 86. Section 627.7711, Florida Statutes, is amended to read:

627.7711 Definitions "Title insurer" defined.—As used in this part, the term:

(1) "Related title services" means services performed by a title insurer or title insurance agent, including, but not limited to, preparing or obtaining title information, preparing documents necessary to close the transaction, conducting the closing, or handling the disbursing of funds related to the closing in a real estate closing transaction in which a title insurance binder, commitment, or policy is to be issued. The risk premium, together with the charge for related title services, constitutes the regular title insurance premium.

(2) "Risk premium" means the charge, as specified by rule of the department, that is made by a title insurer for the assumption of the risk, under the several classifications of title insurance contracts and forms, and upon which charge a premium tax is paid under s. 624.509. As used in this part or in any other law, with respect to title insurance, the words "premium" or "risk premium" mean only the risk premium as defined in this section and do not include any other charge incidental to title insurance.

(3) "Title insurer" means any domestic company organized and authorized to do business under the provisions of chapter 624, for the purpose of issuing title insurance, or; any insurer organized under the laws of another state, the District of Columbia, or a foreign country and holding a certificate of authority to transact business in this state.;

Section 87. Section 627.776, Florida Statutes, is amended to read:

627.776 Applicability or inapplicability of Insurance Code provisions to title insurers ~~Especially applicable provisions; nonapplicable chapters.—~~

(1) In addition to any other provisions of law applicable to title insurers, title insurers are subject to the following provisions of this code ~~especially applicable as to title insurers are contained in the following sections:~~

~~(a) Section 624.404(6) (as to business trust insurer).~~

~~(a)(b) Section 624.406(3) (title insurer must be a stock insurer, except as to business trust insurers).~~

~~(b)(c) Section 624.407.~~

~~(c)(d) Section 624.408.~~

~~(d)(e) Section 624.411.~~

~~(e)(f) Section 624.608.~~

~~(f)(g) Section 625.031(4) (nonadmitted assets do not include certain properties of title insurers).~~

~~(g)(h) Section 625.051(5) (title insurers exempt from usual unearned premium reserve).~~

~~(h)(i) Section 625.111.~~

~~(i)(j) Section 625.330.~~

~~(j)(k) Section 626.9541(1)(h) (rebates prohibited; title insurance).~~

~~(k)(l) Section 627.401(4) (limited applicability of part II of chapter 627 as to title insurance).~~

~~(l)(m) Section 628.151.~~

~~(2) The following provisions of this code do not apply None of the provisions of any of the following are applicable as to title insurance:~~

~~(a) Part I of chapter 626 (insurance representatives; licensing procedures and general requirements);~~

~~(b) Part II of chapter 626 (general lines agents and solicitors; qualifications and requirements);~~

~~(c) Part III of chapter 626 (life insurance agents);~~

~~(d) Part IV of chapter 626 (health insurance agents);~~

~~(e) Part VI of chapter 626 (insurance adjusters);~~

~~(f) Part I of chapter 627 (rates and rating organizations);~~

~~(g) Part III of chapter 627 (life insurance policies and annuity contracts);~~

~~(h) Part IV of chapter 627 (industrial life insurance policies);~~

~~(i) Part V of chapter 627 (group life insurance);~~

~~(j) Part VI of chapter 627 (health insurance policies);~~

~~(k) Part VII of chapter 627 (group, blanket, and franchise health insurance);~~

~~(l) Part IX of chapter 627 (credit life and disability insurances);~~

~~(m) Part X of chapter 627 (property insurance contracts);~~

~~(n) Part XI of chapter 627 (casualty insurance contracts);~~

~~(o) Part XII of chapter 627 (surety insurance contracts);~~

~~(p) Chapter 629; and~~

~~(q) Chapter 632.~~

~~(r) Section 624.4095.~~

Section 88. Section 627.777, Florida Statutes, is amended to read:

627.777 Approval of forms.—A No title insurer may not shall issue or agree to issue any form of title insurance binder, title insurance commitment, preliminary report, title insurance policy, other contract of title insurance, or related form until it is unless the same has first been filed with and approved by the department. The department may not disapprove a No title guarantee or policy form shall be disapproved on the ground that it has on it a blank form for an attorney's opinion on the title.

Section 89. Section 627.7773, Florida Statutes, is amended to read:

627.7773 Accounting and auditing of forms by title insurers.—

(1) Each title insurer authorized to do business in this state shall, at least once during each calendar year, commencing on January 1, 1986, require of each of its title insurance agents or members of a business trust title insurer accountings of all outstanding forms in the agent's their possession of the types that are specified in s. 627.777.

(2) If the department has reason to believe that an audit of outstanding forms should be required of any title insurer as to a title insurance agent or member of a business trust title insurer, the department may require the title insurer to make a special audit of the such outstanding forms; and The title insurer shall complete the such audit not later than 60 days after the request is received from the department, and shall report to the department the results of the such special audit to the department no later than 90 days after the request is received.

Section 90. Section 627.7776, Florida Statutes, is amended to read:

627.7776 Furnishing of supplies; civil liability.—

(1) A title insurer may shall not furnish to any person any blank forms, applications, stationery, or other supplies to be used in soliciting, negotiating, or effecting contracts of title insurance on its behalf until that person has received from the insurer a contract to act as a title insurance agent and has been licensed by the department, if required by s. 626.8417, or has been approved as a member of a business trust title insurer.

(2) A title insurer or, title insurance agent, or member of a business trust title insurer that furnishes any supplies to a person not authorized by the title insurer as provided in subsection (1) is subject to civil liability to any insured of the title such insurer to the same extent and in the same manner as if the such person had been appointed or authorized by the title insurer to act in its behalf.

Section 91. Section 627.778, Florida Statutes, is amended to read:

627.778 Limit of risk.—

(1)(a) A No title insurer may not shall issue any contract of title insurance, either as a primary insurer or as a coinsurer or reinsurer, upon an estate, lien, or interest in property located in this state unless;

1. The which contract shows does not show on its face the dollar amount of the risk assumed; and

2. The dollar amount of the risk assumed does not exceed and which is in an amount exceeding one-half of its surplus as to policyholders, unless the excess is simultaneously reinsured in one or more approved insurers.

(b) A No title insurer may not shall circumvent the limitations of paragraph (a) by issuing foregoing limitation by the issuance of two or more policies upon the same estate, lien, or interest.

(c) This subsection does shall not be construed to prohibit:

1.(a) The simultaneous issuance of policies insuring different estates, liens, or interests in the same property, if provided each of the such simultaneous policies excepts the paramount estates, liens, or interests to which the insured estate, lien, or interest is subject and if each of the simultaneous policies each policy so simultaneously issued conforms to the limitations and inhibitions of this subsection;

2.(b) Ceding portions of the total risk to authorized insurers. Insurance ceded, including coinsurance effected, is shall be deemed a retention of risk by the insurer assuming the ceded risk, and not by the insurer ceding the risk same.

(2) Surplus as to policyholders shall be determined from the last annual statement of the insurer filed under as provided by s. 624.424.

Section 92. Section 627.780, Florida Statutes, is amended to read:

627.780 Illegal dealings in risk rate premium.—

(1) A No person may not shall knowingly quote, charge, accept, collect, or receive a risk premium for title insurance other than the risk premium adopted promulgated by the department.

(2) A title No insurer may not shall knowingly accept, collect, or receive any sum as risk premium for title insurance, if the title which insurance is not then provided or is not to be provided, subject to acceptance of the risk, in due course (subject to acceptance of the risk) to be

~~provided, unless the title insurer promptly enters the sum on its books of account such sum is promptly entered upon the books of account of such insurer as premium collected in advance.~~

Section 93. Section 627.782, Florida Statutes, is amended to read:

627.782 ~~Adoption~~ ~~Promulgation~~ of rates.—

(1) ~~Subject to the rating provisions of this code, the department must adopt a rule specifying The department shall have the power, and it shall be its duty, subject to the applicable rating section of this code, to promulgate the risk premium to be charged in this state by insurers for the respective types of title insurance contracts and services incident thereto. The department may, by rule, establish limitations on such reasonable charges made in addition to the risk premium based upon the expenses associated with the services rendered and other relevant factors. The department must also adopt and in connection therewith to promulgate rules incident to the applicability of the risk premium such rate, including the percentage or amount of the risk premium required to be maintained by the title insurer, and related rules to ensure that the amounts required to be maintained said sums are retained by the insurer are not less than 30 percent of the risk premium for policies sold by agents.~~

(2) ~~In adopting premium rates, the department must give due consideration to Rates shall be made in accordance with the following:~~

(a) ~~The insurers' Due consideration shall be given to past loss experience and prospective loss experience under insured closing service letters, search and examination services, and policy liabilities.~~

(b) ~~A reasonable margin for underwriting profit and contingencies, including contingent liability under s. 627.7865, sufficient to allow insurers and agents to earn a rate of return on their capital that will attract and retain adequate capital investment in the title insurance business.~~

(c) ~~Past expenses and prospective expenses for administration and handling of risks.~~

(d) ~~Liability for defalcation, and to~~

(e) ~~Other relevant factors.~~

(3)(b) ~~Rates may be grouped by classification or schedule and may differ as to class of risk assumed.~~

(4)(e) ~~Rates may shall not be excessive, inadequate, or unfairly discriminatory.~~

(5)(2) ~~The risk premium applies shall apply to each \$100 of insurance issued to an insured.~~

(6)(3) ~~The risk premium rates promulgated for title insurance shall apply throughout this state.~~

(7)(4) ~~The department shall, in accordance with the standards provided in subsection (2)(1), review the risk premium and the related title services rate as needed, but not less frequently than once every 3 years, and shall, based upon the such review required by this subsection, revise the risk premium and the related title services rate if the results of the review so warrant.~~

(8) ~~The department may, by rule, require licensees under this part to annually submit statistical information, including loss and expense data, as the department determines to be necessary to analyze risk premium and related title services rates, retention rates, and the condition of the title insurance industry.~~

Section 94. Section 627.783, Florida Statutes, is amended to read:

627.783 Rate deviation.—

(1) ~~A title At any time after the first promulgation of risk rates as provided for in this part, an authorized insurer may petition the department for an order authorizing and permitting a specific deviation from the adopted in the risk premium, and a title insurer or title insurance agent may petition the department for an order authorizing and permitting a specific deviation above the reasonable charge for other services rendered specified in s. 627.782(1) s. 627.781(2). The Such petition shall be in writing and sworn to and shall set forth allegations of fact upon which the petitioner will rely, including the petitioner's reasons for requesting the such deviation. Any authorized title insurer or agent may~~

~~join in the such petition for like authority to deviate or may file a separate petition praying for like such authority or opposing the such deviation. The department shall rule on all such petitions shall be ruled upon simultaneously.~~

(2) ~~If, in the judgment of the department, the requested deviation is not justified, the department may enter an order denying the such petition. An order granting a petition constitutes an amendment to the adopted The order or orders entered by the department granting a deviated rate shall be in the nature of a change and amendment of the promulgated risk premium, and is subject to the provisions of s. 627.782 shall apply to any such change and amendment and the order or orders affecting the same.~~

Section 95. Section 627.7831, Florida Statutes, is created to read:

627.7831 Title binders and commitments; charges; collection.—

(1) ~~When a title insurance binder or a commitment to insure a title or risk is issued at the request of the insured or the insured's representative or agent, a portion of the risk premium must be charged for the binder or commitment when issued. The portion of the risk premium charged for the binder or commitment must be credited to the risk premium due upon issuance of the title insurance policy.~~

(2) ~~The amount charged under subsection (1) must be collected no later than the date of the closing or 12 months after the date of the commitment or binder, whichever occurs earlier, or another date agreed to in writing at the time of issuance of the binder or commitment.~~

(3) ~~This section does not apply to a transaction involving a residential property.~~

Section 96. Section 627.784, Florida Statutes, is amended to read:

627.784 Casualty title insurance prohibited.—

(4) ~~A No title insurance policy or guarantee of title may not shall be issued upon a casualty basis.~~

(2) ~~The term "casualty basis" as used in this section means the issuance of a title insurance policy or guarantee of title with disregard to the possible existence of adverse matters or defects of title.~~

Section 97. Section 627.7841, Florida Statutes, is amended to read;

627.7841 Insurance against adverse matters or defects in the title.—~~If a title insurer issuing a binder, commitment, policy of title insurance, or guarantee of title upon an estate, lien, or interest in property located in this state through its officers, employees, or agents, or members of a business trust title insurer, which disburses settlement or closing funds, the title insurer shall insure against the possible existence of adverse matters or defects in the title which are recorded during the period of time between the effective date of the binder or commitment and the date of recording of the document creating the estate or interest to be insured, except as to matters of which the insured has knowledge.~~

Section 98. Section 627.7842, Florida Statutes, is amended to read:

627.7842 Policy exceptions.—

(1) ~~No title insurance policy shall be issued in this state with exceptions from coverage to the policy form approved by the department for the following:~~

(a) ~~If a survey meeting the minimum technical standards for surveying required by the Department of Professional Regulation and certified to the title insurer by a registered Florida surveyor has been completed on the property within 90 days before the date of closing, the title policy may only except from coverage the these encroachments, overlays, boundary line disputes, and other matters which are actually shown on the survey.~~

(b) ~~If at closing the seller signs an affidavit swearing that there is no person in possession of the property or with a claim of possession to the property except the seller, the title policy may shall not exclude from coverage rights or claims of parties in possession not shown by the public records.~~

(c) ~~If at closing the seller signs an affidavit swearing that no improvements have been made to the property within the past 90 days for which payment has not been made in full, the title policy may shall not except from coverage any lien or right to a lien for services, labor, or material furnished which is imposed by law and not shown by the public record.~~

(2) The title insurer or agent issuing the title policy may except from coverage the items specified in subsection (1) if ~~the title insurer or agent he~~ has knowledge of facts requiring ~~the such~~ exceptions, notwithstanding the survey or affidavits, ~~if the insurer or agent discloses. However, he shall disclose~~ such facts to the proposed insured.

Section 99. Section 627.7843, Florida Statutes, is created to read:

627.7843 Ownership and encumbrance reports.—

(1) As used in this section, the term "ownership and encumbrance report" means a report that discloses certain defined documents imparting constructive notice and appearing in the official records relating to specified real property.

(2) An ownership and encumbrance report may not directly or indirectly set forth or imply any opinion, warranty, guarantee, insurance, or other similar assurance as to the status of title to real property.

(3) Any ownership and encumbrance report or similar report that is relied on or intended to be relied on by a consumer must be on forms approved by the department, and must provide for a maximum liability for incorrect information of not more than \$1,000.

Section 100. Section 627.7845, Florida Statutes, is amended to read:

627.7845 Determination of insurability required; preservation of evidence of title search and examination.—

(1) ~~A title insurer may not issue a No title insurance binder, commitment, endorsement, title insurance policy of title insurance, or guarantee of title shall be written unless and until the title insurer has caused to be conducted a reasonable search and examination of the title and of such other information as may be necessary, and has caused to be made a determination of insurability of title, including endorsement coverages, in accordance with sound underwriting practices.~~

(2) The title insurer shall cause the evidence of the reasonable search and examination of the title to be preserved and retained in its files or in the files of its title insurance agent ~~or member of a business trust title insurer~~ for a period of not less than 7 years after the title insurance binder, commitment, ~~title insurance policy of title insurance, or guarantee of title was has been issued.~~ The title insurer ~~or agent must produce the evidence required to be maintained by this subsection shall cause this evidence to be produced~~ at its offices upon the demand of the department. ~~Instead in lieu of retaining the original evidence, the title insurer or the title insurance agent or member of a business trust title insurer may, in the regular course of business, establish a system under which whereby all or part of the evidence is these writings are recorded, copied, or reproduced by any photographic, photostatic, microfilm, microcard, miniature photographic, or other process which accurately reproduces or forms a durable medium for reproducing the original.~~

(3) ~~The title insurer or its agent must maintain a record of the actual risk premium and related title service charges made for issuance of the policy and any endorsements in its files for a period of not less than 7 years. The insurer or agent must produce the record at its office upon demand of the department.~~

(4)(3) This section does not apply to an insurer assuming no primary liability in a contract of reinsurance or to an insurer acting as a coinsurer if any other coinsuring insurer has complied with this section.

Section 101. Section 627.785, Florida Statutes, is amended to read:

627.785 Preemption by state.—~~The State of Florida hereby preempts the regulation of title insurers and title insurance is preempted to the state.~~

Section 102. Section 627.786, Florida Statutes, is amended to read:

627.786 Transaction of title insurance and any other kind of insurance prohibited.—

(1) ~~An No insurer may not shall~~ transact title insurance and any other kind of insurance in this state.

(2) Subsection (1) does not apply to any insurer actively transacting title insurance and any other kind of insurance in this state on January 1, 1965.

(3) Subsection (1) ~~does shall~~ not preclude a title insurer from providing instruments to any prospective insured, in the form and content as

approved by the department, ~~under which whereby~~ the title insurer assumes liability for loss due to the fraud of, dishonesty of, misappropriation of funds by, or failure to comply with written closing instructions by, its contract agents or, approved attorneys, ~~or members of a business trust title insurer~~ in connection with a real property transaction for which ~~the title insurer is to issue a title insurance policy or guarantee of title by such title insurer is to be issued.~~

Section 103. Section 627.7865, Florida Statutes, is amended to read:

627.7865 Title insurer assessments.—As a condition of doing business in this state, each title insurer shall ~~agree~~ to be liable for an assessment to pay all unpaid title insurance claims on real property in this state for any title insurer which is liquidated with unpaid outstanding claims. The department shall assess all title insurers on a pro rata basis determined by their writings in this state for amounts necessary to pay ~~the such~~ claims. ~~However, in no event shall~~ A title insurer ~~is not~~ be required to pay an amount in excess of one-tenth of its surplus as to policyholders.

Section 104. Section 627.791, Florida Statutes, is amended to read:

627.791 Penalties against title insurers for violations by persons or entities not licensed.—A title insurer ~~or business trust title insurer~~ is subject to the penalties in ss. 624.418(2) and 624.4211 for any violation of a lawful order ~~or, rule of the Department of Insurance, or for any violation of this provision of the Florida Insurance code, committed by:~~

(1) A person, firm, association, corporation, cooperative, joint-stock company, or other legal entity not licensed ~~under this part pursuant to this act~~ when issuing and countersigning binders, commitments, policies of title insurance, or guarantees of title on behalf of the title insurer.

(2) An attorney when issuing and countersigning binders, commitments, policies of title insurance, or guarantees of title on behalf of the title insurer.

Section 105. Section 627.792, Florida Statutes, is amended to read:

627.792 Liability of title insurers for defalcation by title insurance agents.—A title insurer ~~is shall be~~ liable for the defalcation, conversion, or misappropriation by a licensed title insurance agent of funds held in trust by the agent pursuant to s. 626.8473. If ~~the such~~ agent is licensed by two or more title insurers, any liability shall be borne by the insurer upon which a title insurance binder, commitment, policy, or title guarantee was issued prior to the illegal act. If no ~~such~~ binder, commitment, policy, or guarantee was issued, each title insurer represented by the agent at the time of the illegal act ~~shares shall share~~ in the liability in the same proportion that the premium remitted to it by the agent during the 1-year period before the illegal act bears to the total premium remitted to all title insurers by the agent during the same time period.

Section 106. Section 627.4149, Florida Statutes, as amended by chapter 90-249, Laws of Florida, and sections 627.0627, 627.0635, 627.356, 627.6176, 627.6573, 627.6693, and 627.781, Florida Statutes, are repealed.

Section 107. Notwithstanding the provisions of the Regulatory Sunset Act or of any other provision of law which provides for review and repeal in accordance with section 11.61, Florida Statutes, and except as otherwise specifically provided in this act, part V of chapter 626, Florida Statutes, and chapter 627, Florida Statutes, and section 624.3161, Florida Statutes, shall not stand repealed on October 1, 1992, and shall continue in full force and effect.

Section 108. Notwithstanding the provisions of the Regulatory Sunset Act or of any other provision of law that provides for review and repeal in accordance with section 11.61, Florida Statutes, and except as otherwise specifically provided in this act, sections 634.045, 634.3073, and 634.4085, Florida Statutes, shall not stand repealed on October 1, 1992, but are repealed October 1, 1993, and shall be reviewed by the Legislature before that date pursuant to section 11.61, Florida Statutes.

Section 109. This act shall take effect October 1, 1992, except that this section and sections 77 and 78 of this act shall take effect upon becoming a law.

And the title is amended as follows:

In title, on page 1, line 1, strike everything before the enacting clause and insert: A bill to be entitled An act relating to insurance; amending ss. 213.05, 337.106, 624.462, 624.5092, F.S.; deleting references to provisions relating to professional liability self-insurance; amending s. 626.022, F.S.; revising application of part I, ch. 626, F.S.; amending s. 626.031,

F.S.; redefining the term "agent" for purposes of part I, ch. 626, F.S.; amending s. 626.241, F.S.; providing requirements for licensure examinations for title insurance agents; amending s. 626.2815, F.S.; providing continuing education requirements for title insurance agents; amending s. 626.331, F.S.; providing a limitation on agents and agency licenses; amending s. 626.611, F.S.; providing circumstances under which the department may deny, suspend, revoke, or refuse to renew a title agent's license or appointment; amending s. 626.841, F.S.; providing definitions; creating s. 626.8411, F.S.; providing for application of part II, ch. 626, F.S., to title insurance agents; providing an exemption; creating s. 626.8412, F.S.; providing licensure and appointment requirements for title insurance agents; creating s. 626.8414, F.S.; providing licensure requirements for title insurance agents; providing certain exemptions from the examination requirement; amending s. 626.8417, F.S.; revising qualification requirements for licensure as a title insurance agent; authorizing the designation of an insurer's corporate officer to take certain actions on behalf of the insurer; providing an exemption from licensing and appointment requirements; creating s. 626.8418, F.S.; providing application requirements for licensure as a title insurance agency; providing requirements for a surety deposit or bond; creating s. 626.8419, F.S.; providing for the appointment of title insurance agencies by title insurers; requiring a fidelity bond and errors and omissions insurance of specified amounts; creating s. 627.0613, F.S.; requiring appointment of a consumer advocate; providing powers; amending s. 627.062, F.S.; providing documentation requirements for rating certain individual risks; amending s. 627.0645, F.S.; revising requirements for rating organizations that file rates with the department; amending s. 627.0652, F.S.; requiring motor vehicle insurance discounts for persons who complete a safety course; deleting obsolete provisions; amending s. 627.0653, F.S.; requiring certain insurance discounts for vehicles with specified equipment; amending s. 627.162, F.S.; providing authorization for charging delinquency and collection fees; providing for attorney's fees; amending s. 627.311, F.S.; prescribing requirements for joint underwriting plans for automobile liability insurance and other motor vehicle insurance; removing self-insurer participation in the workers' compensation joint underwriting association; amending s. 627.3515, F.S.; revising requirements for the market assistance plan for procuring property and casualty insurance; amending s. 627.357, F.S.; limiting the formation of medical malpractice self-insurance funds; amending s. 627.402, F.S.; defining the term "premium" for purposes of part II, ch. 627, F.S.; amending s. 627.408, F.S.; providing requirements for the delivery of a life or health insurance policy to the insured or beneficiary; amending s. 627.409, F.S.; providing limitations on policy cancellation; creating s. 627.4091, F.S.; requiring specific reasons for cancellation or nonrenewal; amending s. 627.410, F.S.; allowing Medicare supplement insurers to utilize guarantee loss ratio if authorized by department rule; amending s. 627.4106, F.S.; providing an exemption from the term "carrier" for certain multiple-employer welfare arrangements; creating s. 627.4131, F.S.; requiring telephone numbers; amending s. 627.4133, F.S.; providing limitations on cancellation or nonrenewal; transferring, renumbering, and amending s. 627.726, F.S., relating to casualty insurance contracts; transferring and renumbering ss. 627.7262, 627.7264, F.S., relating to liability insurers; amending s. 627.4143, F.S., providing requirements for outlines of coverage for motor vehicle insurance and homeowners' insurance; requiring proof of insurance to indicate coverage for rental vehicles; amending s. 627.4234, F.S.; providing requirements for cost-containment provisions in health insurance policies and health care services plans; amending s. 627.4235, F.S.; providing requirements for determining order of benefits; amending s. 627.4615, F.S.; prescribing a method for calculating interest; amending s. 627.481, F.S.; revising requirements authorizing the department to issue permits for making certain annuity agreements for trusts or corporations; creating s. 627.522, F.S.; prohibiting industrial life insurance policies from restricting payment due to certain circumstances of death; providing for the assignment of such policies; amending s. 627.551, F.S.; providing requirements for group life insurance policies; amending s. 627.552, F.S.; providing requirements for life insurance issued to employee groups; amending s. 627.554, F.S.; providing requirements for life insurance issued to labor union groups; amending s. 627.555, F.S.; providing requirements of life insurance issued to trustee groups; excluding dependents in determining persons eligible for coverage under such a policy; amending s. 627.556, F.S.; providing requirements for life insurance issued to credit union groups; deleting a requirement for participation by members; amending s. 627.5565, F.S., relating to life insurance coverage for additional groups; transferring, renumbering, and amending s. 627.572, F.S.; providing requirements for life insurance issued to association groups; authorizing such groups to include dependents and employees of association members; amending s. 627.601, F.S.; providing for

application of part VI, ch. 627, F.S.; transferring and renumbering s. 627.6085, F.S., relating to notification requirements for cancellation, nonrenewal, or change in rates; transferring, renumbering, and amending s. 627.6145, F.S.; providing requirements for claims payments; amending s. 627.607, F.S.; revising requirements for incontestability statements on health insurance policies; creating s. 627.6407, F.S.; requiring health insurance policies that provide coverage for massage to also cover the services of persons licensed to practice massage; amending s. 627.6417, F.S.; requiring insurers to make available coverage for certain surgical procedures and devices incident to a mastectomy; creating s. 627.6419, F.S., relating to cancellation, nonrenewal, and nonissuance of policies or excluding benefits based upon diagnosis of fibrocystic condition; amending s. 627.643, F.S.; requiring the department to adopt standards for health insurance policy forms; providing for minimum standards of benefits for specified categories of coverage; amending s. 627.651, F.S.; providing requirements for group health insurance contracts and self-insurance health coverage; creating s. 627.6516, F.S.; providing requirements for insurance issued to trustee groups; providing requirements for eligibility; providing for payment of premiums; amending s. 627.653, F.S.; providing requirements for insurance issued to employee groups; amending s. 627.655, F.S.; providing requirements for insurance issued to debtor groups; amending s. 627.6575, F.S.; providing circumstances under which the insurer may prospectively charge additional premiums for coverage of a newborn child; amending s. 627.6612, F.S.; requiring insurers to make available coverage for certain surgical procedures and devices incident to a mastectomy; creating s. 627.6619, F.S.; requiring group health insurance policies that provide coverage for massage to also cover the services of persons licensed to practice massage; amending s. 627.666, F.S.; providing for liability of succeeding insurers upon replacement of a group, blanket, or franchise health insurance policy; deleting provisions that provide for liability upon discontinuance of such insurance; amending s. 627.667, F.S.; providing for continuation of benefits in the event of disability; requiring an extension of benefits under certain policies that provide coverage for dental procedures or maternity benefits; amending s. 627.668, F.S.; providing requirements for optional coverage for mental and nervous disorders; providing for the confidentiality of certain patient records submitted to an insurer; amending s. 627.6699, F.S.; providing an exemption from the term "carrier" for certain multiple-employer welfare arrangements; revising dates for reporting of information by small employers; revising provisions regarding composition of the board of the Small Employer Health Reinsurance Program; limiting the responsibility of the reinsuring carrier for incurred claims; amending s. 627.677, F.S.; providing definitions; creating s. 627.6841, F.S.; providing requirements for consolidations of credit insurance; providing notice requirements; providing for calculating premiums; creating s. 627.6842, F.S.; providing requirements for consolidations of group policies; creating s. 627.6343, F.S.; providing disclosure requirements for consolidations; creating s. 627.6844, F.S.; providing certain rule exemptions for group-to-group consolidations; creating s. 627.6845, F.S.; providing requirements for policy forms used in connection with consolidations; creating s. 627.7061, F.S.; providing a limitation on inquiries that constitute claim activity; amending s. 627.727, F.S.; providing coverage limitations for bodily injury under uninsured motorist insurance; expanding definition of "uninsured motor vehicle"; revising provisions with respect to subrogation rights of underinsured motorist insurers; specifying damages recoverable from an uninsured motorist carrier; providing legislative intent; amending s. 627.728, F.S.; providing notice requirements upon cancellation of motor vehicle insurance; exempting certain appeal proceedings from ch. 120, F.S.; amending s. 627.7283, F.S.; authorizing the insurer to retain a portion of unearned premium upon cancellation of a policy of motor vehicle insurance by the insured; amending s. 627.7295, F.S.; providing certain limitations upon cancellation of motor vehicle insurance policies and binders; amending s. 627.736, F.S.; providing authorization for selecting a preferred provider while purchasing insurance; amending s. 627.744, F.S.; providing additional exemptions from preinsurance inspection requirements; providing for inspection fees; requiring the department to conduct a study of the preinsurance inspection program and report to the Legislature; amending s. 627.745, F.S.; revising requirements for mediating insurance claims; revising requirements for qualifying as a mediator; amending s. 627.756, F.S.; providing liability of sureties; amending s. 627.7711, F.S.; providing definitions; amending s. 627.776, F.S.; providing for the application of the Insurance Code to title insurers; amending s. 627.777, F.S.; requiring the approval of title insurance forms by the department; amending s. 627.7773, F.S.; providing for accountings and audits of forms used by title insurance agents; amending s. 627.7776, F.S.; prohibiting the furnishing of supplies; providing a penalty; amending s. 627.778, F.S.; providing certain limitations on assumption of risk by title

insurers; amending s. 627.780, F.S.; prohibiting certain illegal dealings in risk premiums; amending s. 627.782, F.S.; requiring the department to adopt minimum rates for title services; providing requirements for the department in adopting premium rates; amending s. 627.783, F.S.; providing for deviations in rates for title insurance upon order of the department; creating s. 627.7831, F.S.; requiring charging and collection of the risk premium; amending s. 627.784, F.S.; prohibiting the issuance of title insurance with disregard to possible title defects; amending s. 627.7841, F.S.; providing requirements for insurance against adverse matters and defects in title; amending s. 627.7842, F.S.; providing for certain exceptions from coverage in title insurance policies; creating s. 627.7843, F.S.; providing requirements for ownership and encumbrance reports; amending s. 627.7845, F.S.; providing requirements for title searches; providing requirements for maintaining records pertaining to title searches, risk premiums, and service charges; amending s. 627.785, F.S.; preempting to the state the regulation of title insurers and title insurance; amending s. 627.786, F.S.; prohibiting the transaction of title insurance and other kinds of insurance; amending s. 627.7865, F.S.; providing for payment of unpaid outstanding claims through insurer assessments; amending s. 627.791, F.S.; providing penalties; amending s. 627.792, F.S.; providing for liability in the event of defalcation, conversion, or misappropriation of funds held in trust by a title insurance agent; repealing ss. 627.0627, 627.0635, 627.356, 627.4149, 627.6176, 627.6573, 627.6693, 627.781, 627.827, F.S., relating to the Insurance Code; reviving provisions of part V, ch. 626 and ch. 627, F.S., notwithstanding repeals scheduled under the Regulatory Sunset Act; providing for future repeal and review of ss. 634.045, 634.3073, 634.4085, F.S., relating to warranty associations; providing effective dates.

Senator Kiser moved the following amendment to **Amendment 1** which was adopted:

Amendment 1A (with Title Amendment)—On page 159, line 31, insert:

Section 106. Review of financial institutions placing insurance coverage.—On or before January 1, 1993, the Department of Insurance and the Department of Banking and Finance shall submit a report to the President of the Senate and the Speaker of the House of Representatives containing a review of financial institution practices of securing insurance coverage to protect security interests. The report shall include, but is not limited to, a review of consumer complaints relating to financial institution placement of insurance coverage as well as recommendations to curtail such complaints. The report shall also include a review of current charges, rates, and costs associated with bank placement of insurance coverage on secured interests. This report shall be completed within the existing appropriations of the Department of Insurance and the Department of Banking and Finance.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 170, line 25, after "agent;" insert: providing for a review of the methods by which financial institutions place certain insurance coverage;

MOTION

On motion by Senator Thomas, the rules were waived and time of recess was extended until final action on **SB 170-H**.

Senator Grant moved the following amendment to **Amendment 1** which was adopted:

Amendment 1B (with Title Amendment)—On page 55, between lines 11 and 12, insert:

Section 41. Section 627.4236, Florida Statutes, is created to read:

627.4236 Coverage for bone marrow transplant procedures.—

(1) As used in this section, the term "bone marrow transplant" means human blood precursor cells administered to a patient to restore normal hematological and immunological functions following ablative therapy with curative intent. Human blood precursor cells may be obtained from the patient in an autologous transplant or from a medically acceptable related or unrelated donor, and may be derived from bone marrow, circulating blood, or a combination of bone marrow and circulating blood. If chemotherapy is an integral part of the treatment involving bone marrow transplantation, the term "bone marrow transplant" includes both the transplantation and the chemotherapy.

(2) An insurer may not exclude coverage for bone marrow transplant procedures recommended by the referring physician and the treating physician under a policy exclusion for experimental, clinical investigative, educational, or similar procedures contained in any individual or group health insurance policy issued, amended, delivered, or renewed in this state that covers treatment for cancer, if the particular use of the bone marrow transplant procedure is determined to be accepted within the appropriate oncological specialty and not experimental pursuant to subsection (3).

(3)(a) The Secretary of Health and Rehabilitative Services must adopt rules specifying the bone marrow transplant procedures that are accepted within the appropriate oncological specialty and are not experimental for purposes of this section. The rules must be based upon recommendations of an advisory panel appointed by the secretary, composed of:

1. One adult oncologist, selected from a list of three names recommended by the Florida Medical Association;
2. One pediatric oncologist, selected from a list of three names recommended by the Florida Pediatric Society;
3. One representative of the J. Hillis Miller Health Center at the University of Florida;
4. One representative of the H. Lee Moffitt Cancer Center and Research Institute, Inc.;
5. One consumer representative, selected from a list of three names recommended by the Insurance Commissioner; and
6. Four representatives of health insurers licensed in this state.

(b) The secretary must appoint a member of the advisory panel to serve as chairperson.

(c) The Office of the Deputy Secretary for Health of the Department of Health and Rehabilitative Services must provide, within existing resources, staff support to enable the panel to carry out its responsibilities under this section.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 164, line 19, after the semicolon (;) insert: creating s. 627.4236, F.S.; defining the term "bone marrow transplant"; prohibiting insurers from excluding coverage for bone marrow transplant procedures under certain circumstances; requiring the Secretary of Health and Rehabilitative Services to adopt rules; providing for appointment of an advisory panel;

RECONSIDERATION OF AMENDMENT

On motion by Senator Grant, the Senate reconsidered the vote by which **Amendment 1B** was adopted. **Amendment 1B** was withdrawn.

Senator Weinstein moved the following amendment to **Amendment 1** which was adopted:

Amendment 1C (with Title Amendment)—On page 135, strike all of lines 23 through 26 and insert:

Section 82. Paragraph (a) of subsection (7) and subsection (10) of section 627.736, Florida Statutes, are amended to read:

627.736 Required personal injury protection benefits; exclusions; priority.—

(7) MENTAL AND PHYSICAL EXAMINATION OF INJURED PERSON; REPORTS.—

(a) Whenever the mental or physical condition of an injured person covered by personal injury protection is material to any claim that has been or may be made for past or future personal injury protection insurance benefits, such person shall, upon the request of an insurer, submit to mental or physical examination by a physician or physicians. The costs of any examinations requested by an insurer shall be borne entirely by the insurer. Such examination shall be conducted within the municipality of residence of the insured or in the municipality where the insured is receiving treatment. If the examination is to be conducted within the municipality of residence of the insured and if there is no qualified physi-

cian to conduct the examination within such municipality, then such examination shall be conducted in an area of the closest proximity to the insured's residence. Personal protection insurers are authorized to include reasonable provisions in personal injury protection insurance policies for mental and physical examination of those claiming personal injury protection insurance benefits. An insurer may not withdraw payment of a treating physician without the consent of the injured person covered by the personal injury protection, unless the insurer first obtains a report by a physician *licensed under the same chapter as the treating physician whose treatment authorization is sought to be withdrawn*, stating that treatment was not reasonable, related, or necessary.

And the title is amended as follows:

In title, on page 168, line 28, after the semicolon (;) insert: providing that certain reports obtained by the insurer be by a physician licensed under the same chapter as the treating physician;

Senator Burt moved the following amendment to **Amendment 1** which failed:

Amendment 1D (with Title Amendment)—On page 35, strike all of lines 8-23 and insert:

(c) Effective July 1, 1993 ~~1991~~, self-insurers as defined in s. 440.02(21)(a) and (c) ~~must shall~~ participate in the equitable apportionment among insurers of losses and loss-adjustment expenses incurred by the plan with credit for investment income. Expenses ~~are shall be~~ limited to actual expenses incurred by the plan. ~~However, This paragraph does shall not apply to governmental entities that which are self-insurers under s. 440.38(6) or s. 440.57 or public utilities that who are self-insurers under s. 440.38(1)(b). Self-insurers participating in the plan are shall be deemed to be insurers for the purposes of this subsection. When the provisions of this paragraph become effective, two individual self-insurers participating in the plan and authorized under s. 440.38(1)(b) and two group self-insurers participating in the plan and authorized under s. 440.57 shall be added to the board of governors as named by the Insurance Commissioner.~~

(d) *Effective July 1, 1993, assessable mutual insurers as defined in s. 628.6011, commercial self-insurers as defined in s. 624.462, and limited commercial reciprocals must participate in the equitable apportionment among insurers of losses and loss-adjustment expenses incurred by the plan with credit for investment income. Expenses are limited to actual expenses incurred by the plan.*

And the title is amended as follows:

In title, on page 163, strike all of lines 11-13 and insert: vehicle insurance; revising provisions requiring participation by self-insurers in apportionment incurred by the workers' compensation and employer's liability insurance joint underwriting association plan; deleting the requirement for representation by self-insurers on the board of governors; requiring participation by assessable mutual insurers, commercial self-insurers, and limited commercial reciprocals in apportionment incurred by the workers' compensation and employer's liability insurance joint underwriting association plan; amending s.

Senator Weinstein moved the following amendments to **Amendment 1** which were adopted:

Amendment 1E—On page 122, line 15 through page 125, line 29, strike all of said lines and insert:

(6)(a) If an injured person or, in the case of death, the personal representative agrees to settle a claim with a liability insurer and its insured ~~for the limits of liability~~, and such settlement would not fully satisfy the claim for personal injuries or wrongful death so as to create an underinsured motorist claim ~~against the underinsured motorist insurer~~, then ~~written notice of the proposed settlement must such settlement agreement shall be submitted by certified or registered mail in writing to all the underinsured motorist insurers that provide coverage. insurer, which shall have a period of 30 days from receipt thereof in which to agree to arbitrate the underinsured motorist claim and approve the settlement, waive its subrogation rights against the liability insurer and its insured, and authorize the execution of a full release. If The underinsured motorist insurer then has a period of does not agree within 30 days after receipt thereof to consider authorization of the settlement or retention of subrogation rights. If an underinsured motorist insurer authorizes settlement or fails to respond as required by paragraph (b) to the settlement request within the 30-day period, the injured party may proceed~~

to execute a full release in favor of the underinsured motorist's liability insurer and its insured and finalize the proposed settlement without prejudice to any underinsured motorist claim. to arbitrate the underinsured motorist claim and approve the proposed settlement agreement, waive its subrogation rights against the liability insurer and its insured, and authorize the execution of a full release, the injured person or, in the case of death, the personal representative may file suit joining the liability insurer's insured and the underinsured motorist insurer to resolve their respective liabilities for any damages to be awarded; however, in such action, the liability insurer's coverage must first be exhausted before any award may be entered against the underinsured motorist insurer, and any such award against the underinsured motorist insurer shall be excess and subject to the provisions of subsection (1). Any award in such action against the liability insurer's insured is binding and conclusive as to the injured person and underinsured motorist insurer's liability for damages up to its coverage limits. If an insurer has an arbitration clause in its policy and elects arbitration, the arbitration decision is binding and the insurer has no recourse to civil action.

(b) *If an underinsured motorist insurer chooses to preserve its subrogation rights by refusing permission to settle, the underinsured motorist insurer must, within 30 days after receipt of the notice of the proposed settlement, pay to the injured party the amount of the written offer from the underinsured motorist's liability insurer. Thereafter, upon final resolution of the underinsured motorist claim, the underinsured motorist insurer is entitled to seek subrogation against the underinsured motorist and the liability insurer for the amounts paid to the injured party.*

(c) *The underinsured motorist insurer is entitled to a credit against total damages in the amount of the limits of the underinsured motorist's liability policy in all cases to which this subsection applies, even if the settlement with the underinsured motorist under paragraph (a) or the payment by the underinsured motorist insurer under paragraph (b) is for less than the underinsured motorist's full liability policy limits. The term "total damages" as used in this section means the full amount of damages determined to have been sustained by the injured party, regardless of the amount of underinsured motorist coverage. Nothing in this subsection, including any payment or credit under this subsection, reduces or affects the total amount of underinsured motorist coverage available to the injured party.*

(7) The legal liability of an uninsured motorist coverage insurer does not include damages in tort for pain, suffering, mental anguish, and inconvenience unless the injury or disease is described in one or more of paragraphs (a) through (d) of s. 627.737(2).

(8) The provisions of s. 627.428 do not apply to any action brought pursuant to this section against the uninsured motorist insurer unless there is a dispute over whether the policy provides coverage for an uninsured motorist proven to be liable for the accident.

(9) Insurers may offer policies of uninsured motorist coverage containing policy provisions, in language approved by the department, establishing that if the insured accepts this offer:

(a) The coverage provided as to two or more motor vehicles shall not be added together to determine the limit of insurance coverage available to an injured person for any one accident, except as provided in paragraph (c).

(b) If at the time of the accident the injured person is occupying a motor vehicle, the uninsured motorist coverage available to him is the coverage available as to that motor vehicle.

(c) If the injured person is occupying a motor vehicle which is not owned by him or by a family member residing with him, he is entitled to the highest limits of uninsured motorist coverage afforded for any one vehicle as to which he is a named insured or insured family member. Such coverage shall be excess over the coverage on the vehicle he is occupying.

(d) The uninsured motorist coverage provided by the policy does not apply to the named insured or family members residing in his household who are injured while occupying any vehicle owned by such insureds for which uninsured motorist coverage was not purchased.

(e) If, at the time of the accident the injured person is not occupying a motor vehicle, he is entitled to select any one limit of uninsured motorist coverage for any one vehicle afforded by a policy under which he is insured as a named insured or as an insured resident of the named insured's household.

In connection with the offer authorized by this subsection, insurers shall inform the named insured, applicant, or lessee, on a form approved by the department, of the limitations imposed under this subsection and that such coverage is an alternative to coverage without such limitations. If this form is signed by a named insured, applicant, or lessee, it shall be conclusively presumed that there was an informed, knowing acceptance of such limitations. When the named insured, applicant, or lessee has initially accepted such limitations, such acceptance shall apply to any policy which renews, extends, changes, supersedes, or replaces an existing policy unless the named insured requests deletion of such limitations and pays the appropriate premium for such coverage. Any insurer who provides coverage which includes the limitations provided in this subsection shall file revised premium rates with the department for such uninsured motorist coverage to take effect prior to initially providing such coverage. The revised rates shall reflect the anticipated reduction in loss costs attributable to such limitations but shall in any event reflect a reduction in the uninsured motorist coverage premium of at least 20 percent for policies with such limitations. Such filing shall not increase the rates for coverage which does not contain the limitations authorized by this subsection, and such rates shall remain in effect until the insurer demonstrates the need for a change in uninsured motorist rates pursuant to s. 627.0651.

(10) *The damages recoverable from an uninsured motorist carrier in an action brought under s. 624.155 shall include the total amount of the claimant's damages, including the amount in excess of the policy limits, any interest on unpaid benefits, reasonable attorney's fees and costs, and any damages caused by a violation of a law of this state. The total amount of the claimant's damages are recoverable whether caused by an insurer or by a third-party tortfeasor.*

Amendment 1F (with Title Amendment)—On page 160, between lines 21 and 22, insert:

Section 109. Paragraph (a) of subsection (10) and subsection (20) of section 627.6675, Florida Statutes, as amended by section 138 of chapter 92-33, Laws of Florida, are amended to read:

627.6675 Conversion on termination of eligibility.—Subject to all of the provisions of this section, a group policy delivered or issued for delivery in this state by an insurer or nonprofit health care services plan that provides, on an expense-incurred basis, hospital, surgical, or major medical expense insurance, or any combination of these coverages, shall provide that an employee or member whose insurance under the group policy has been terminated for any reason, including discontinuance of the group policy in its entirety or with respect to an insured class, and who has been continuously insured under the group policy, and under any group policy providing similar benefits that the terminated group policy replaced, for at least 3 months immediately prior to termination, shall be entitled to have issued to him by the insurer a policy or certificate of health insurance, referred to in this section as a "converted policy." An employee or member shall not be entitled to a converted policy if termination of his insurance under the group policy occurred because he failed to pay any required contribution, or because any discontinued group coverage was replaced by similar group coverage within 31 days after discontinuance.

(10) **REQUIRED OPTION FOR MAJOR MEDICAL COVERAGE.**—Subject to the provisions and conditions of this part, the employee or member shall be entitled to obtain a converted policy providing major medical coverage under a plan meeting the following requirements:

(a) A maximum benefit equal to the lesser of the policy limit of the group policy from which the individual converted or \$500,000 \$250,000 per covered person for all covered medical expenses incurred during the covered person's lifetime.

(20) Nothing in this section or in the incorporation of it into insurance policies shall be construed to require insurers to provide benefits equal to those provided in the group policy from which the individual converted, *provided, however, that comprehensive benefits are offered which shall be subject to approval by the Insurance Commissioner. Further, the Legislature finds and declares that this subsection is a clarification and specification of the legislative intent of this section prior to this enactment, and that in light of confusion relating to the rights and obligations of insurers and insureds resulting from judicial and administrative interpretations of this section, the state has great interest in giving retrospective intent to this clarification. The Legislature therefore*

~~intends that this section be given such retrospective effect as is necessary to clarify that it does not, and did not before this enactment, require the issuance of conversion policies providing benefits equal to those provided in the group policy from which the individual converted.~~

(Renumber subsequent section.)

And the title is amended as follows:

In title, on page 171, line 3, insert: amending s. 627.6675, F.S.; requiring certain \$500,000 conversion policies; deleting certain retroactivity provisions;

Amendment 1 as amended was adopted.

On motion by Senator Childers, by two-thirds vote **SB 170-H** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—38 Nays—None

REPORTS OF COMMITTEES

The Committee on Rules and Calendar submits the following bills to be placed on the Special Order Calendar for Wednesday, June 17, 1992: CS for SB 102-H, CS for SB 132-H, SB 226-H, SB 228-H, CS for HB 67-H, SB 180-H, SB 210-H, SB 170-H, CS for CS for SB 50-H, SB 138-H, CS for HB 257-H, CS for SB 154-H

Respectfully submitted,
Pat Thomas, Chairman

The Committee on Finance, Taxation and Claims recommends the following pass: SB 188-H

The Committee on Health and Rehabilitative Services recommends the following pass: SB 240-H

The bills were referred to the Committee on Appropriations under the original reference.

The Committee on Finance, Taxation and Claims recommends the following pass: HB 159-H, SB 26-H with 1 amendment

The bills were placed on the calendar.

The Committee on Finance, Taxation and Claims recommends a committee substitute for the following: CS for SB 208-H

The bill with committee substitute attached was placed on the calendar.

RULES AND CALENDAR COMMITTEE REPORT

Senator Thomas reported that the Committee on Rules and Calendar recommended that the following bills be admitted for introduction by the required constitutional two-thirds vote of the Senate:

By Senator Grant - Political Party Offices

By Senator Davis - Time Limitations for Sexual Battery Prosecutions

By Senator Davis - Resolution/University of Tampa Baseball Team

By Senator Walker - Resolution/Patricia Seitz

The report of the Committee on Rules and Calendar was adopted.

INTRODUCTION AND REFERENCE OF BILLS

FIRST READING

By Senator Kurth—

SB 238-H—A bill to be entitled An act relating to local government budgets; amending s. 129.06, F.S.; providing that a board of county commissioners may authorize budget amendments by resolution or ordinance under certain circumstances; providing an effective date.

—was referred to the Committee on Community Affairs.

By Senators Weinstock and Myers—

SB 240-H—A bill to be entitled An act relating to Medicaid clinic services; amending s. 409.908, F.S.; providing that county public health clinic services may be reimbursed a rate per visit based upon total reasonable costs of the clinic as determined by the Department of Health and Rehabilitative Services; providing conditions for implementation; providing for future repeal; authorizing the department to transfer certain funds; providing an appropriation; providing an effective date.

—was referred to the Committees on Health and Rehabilitative Services; and Appropriations

By Senator Kiser—

SB 242-H—A bill to be entitled An act relating to the Gas Tax Collection Trust Fund; amending s. 212.69, F.S.; increasing the amount of funds annually transferred from the trust fund to the Department of Natural Resources; providing for the distribution and uses of such funds; providing an effective date.

—was referred to the Committees on Natural Resources and Conservation; Finance, Taxation and Claims; and Appropriations.

By Senator Kirkpatrick—

SB 244-H—A bill to be entitled An act relating to the Gas Tax Collection Trust Fund; amending s. 212.69, F.S.; increasing the amount of funds annually transferred from the trust fund to the Department of Natural Resources; providing for the distribution of such funds; providing for funds to be transferred annually from the trust fund to the Board of Regents, to be used as specified; providing an effective date.

—was referred to the Committees on Natural Resources and Conservation; Finance, Taxation and Claims; and Appropriations.

COMMITTEE SUBSTITUTES

FIRST READING

By the Committees on Finance, Taxation and Claims; and Commerce—

CS for CS for SB 208-H—A bill to be entitled An act relating to pari-mutuel wagering; amending s. 20.16, F.S.; providing for a general counsel for the Florida Pari-mutuel Commission and providing for duties and compensation; saving from repeal s. 20.16(4), F.S., relating to the commission; creating s. 550.001, F.S.; providing a short title; creating s. 550.002, F.S.; providing definitions; creating s. 550.003, F.S.; providing for validating existing permits; amending s. 550.012, F.S.; providing for restoration of lost performances; amending s. 550.0121, F.S.; authorizing the Florida Pari-mutuel Commission to approve, reallocate, or reassign performance dates; providing additional operating days; removing restrictions on the number of matinee performances that may be conducted by Summersport Jai Alai; providing for quarter horse racing throughout the year; providing that any permitted facility may be used for the conduct of concerts, trade shows, expositions, conventions, flea markets, charitable events, and similar activities in addition to the conduct of pari-mutuel wagering; providing for conversion of a greyhound permit to a jai alai permit; amending s. 550.02, F.S.; providing powers and duties of the Division of Pari-mutuel Wagering of the Department of Business Regulation; creating s. 550.022, F.S.; restricting financing arrangements by pari-mutuel permitholders; amending s. 550.03, F.S.; providing for "hound dog derbies" or "mutt derbies"; amending s. 550.042, F.S.; authorizing minors to attend and be employed at pari-mutuel performances under specified conditions; amending s. 550.05, F.S.; providing procedures for obtaining pari-mutuel operation permits; providing for contents of a permit application; providing duties of the Division of Pari-mutuel Wagering; amending s. 550.06, F.S.; providing technical changes; amending s. 550.09, F.S.; providing for fees and taxes; amending s. 550.10, F.S.; providing for the issuance of occupational licenses; specifying criteria for denial or cancellation of such licenses; providing for taxes in lieu of other taxes; authorizing the division to obtain certain information; amending s. 550.115, F.S.; expanding the number of persons covered by the relief fund; amending s. 550.12, F.S.; providing bond requirements; providing for annual review of permitholders' records; amending s. 550.13, F.S.; providing for payment of racing funds to district school boards; amending s. 550.16, F.S.; providing limitation on takeout; amending s. 550.162, F.S.; providing technical and conforming language; transferring and amending s. 551.1535, F.S.; providing for Jai Alai Tournament of Champions Meet; amending ss.

550.164, 550.24, F.S.; providing conforming language; amending s. 550.2405, F.S.; providing for inadmissibility in criminal proceedings of certain evidence of tests or actions taken by stewards, judges, or the division; reenacting and amending s. 550.241, F.S.; specifying circumstances under which racing animal drug test results are to be disclosed; providing limited confidentiality for test results; providing for future review and repeal of related public records law exemptions; regulating the medication of racing animals and prohibiting the use of drugs in racing animals under certain circumstances; providing procedures for obtaining and testing split samples of blood or urine; providing legislative intent that greyhound racing animals be treated humanely; providing for procedures for euthanizing greyhounds; providing for the establishment of adoption facilities under certain circumstances; creating s. 550.2614, F.S.; requiring thoroughbred horseracing permitholders to deduct a certain percentage of purses to be paid to a horsemen's association representing the majority of thoroughbred racehorse owners and trainers; authorizing the division to adopt rules; amending s. 550.2616, F.S.; providing sources of funds for breeders' awards; amending s. 550.262, F.S.; providing for certain funds to be withheld from purse pools; specifying the purposes for which such funds are to be used; providing for payment of breeders' and owners' awards under certain circumstances; providing technical changes; amending s. 550.28, F.S.; providing technical changes; amending s. 550.33, F.S.; removing authority to conduct quarter horse races; removing a prohibition against specified intertrack wagering by quarter horse permitholders; amending s. 550.35, F.S.; providing that wagers accepted by out-of-state pari-mutuel permitholders on a broadcasted race may be included in the track's pari-mutuel pool; authorizing the division to facilitate commingling of pari-mutuel pools; amending s. 550.37, F.S.; revising legislative findings; providing for operation of certain harness tracks; creating s. 550.495, F.S.; providing for totalisator licensing; amending s. 550.50, F.S.; providing clarifying language; amending s. 550.52, F.S.; providing a schedule of racing dates for certain permitholders; providing additional operating days; providing operating conditions for licensed thoroughbred permitholders; amending s. 550.61, F.S.; specifying times during which specified facilities may conduct intertrack wagering; restricting the conduct of intertrack wagering in certain counties; amending s. 550.62, F.S.; providing for optional payments to the Florida Owners' Awards program; amending s. 550.63, F.S.; providing a formula for distribution of intertrack wagering proceeds from out-of-state simulcast races; providing for thoroughbred purse money to be paid to certain permitholders under certain circumstances; amending s. 550.633, F.S.; providing that the surcharge collected by a guest track accepting intertrack wagers must be calculated after breakage is taken out; amending s. 550.65, F.S.; providing for backside medical and health benefits; specifying amount of total handle that may be paid to a corporation to provide such benefits and specifying corporations eligible to provide such benefits; creating the Workers' Compensation Fund for Jockeys Study Commission; prescribing its membership and duties; creating s. 550.70, F.S.; requiring chief court judges at certain jai alai games; providing time for ratifying jai alai permits; allowing amateur jai alai contests; amending ss. 772.102, 895.02, F.S.; providing funding for certain research programs; providing conforming provisions; providing for the repeal of specified provisions in chs. 550, 551, F.S., relating to pari-mutuel wagering and jai alai; providing applicability; providing retroactivity; providing an effective date.

MESSAGES FROM THE GOVERNOR AND OTHER EXECUTIVE COMMUNICATIONS

The Governor advised that he had filed with the Secretary of State SB 16-H, SB 44-H and SB 104-H, which became law without his signature on June 16, 1992.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

FIRST READING

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has passed HB 163-H; has passed as amended HB 21-H, CS for HB 109-H, CS for HB 241-H, HB 317-H and requests the concurrence of the Senate.

John B. Phelps, Clerk

By Representatives Harris and Rudd—

HB 163-H—A bill to be entitled An act relating to definition of “nursing home”; amending s. 196.012, F.S.; updating the definition of “nursing home” in provisions relating to property tax exemptions; providing an effective date.

—was referred to the Committees on Health and Rehabilitative Services; and Finance, Taxation and Claims.

By Representative Morse—

HB 21-H—A bill to be entitled An act relating to the Uniform Commercial Code; amending s. 679.402, F.S.; revising language with respect to an additional fee and changing the fee required for filing any instrument permitted or required to be filed under the provisions of the code relating to secured transactions; amending s. 679.404, F.S.; revising language with respect to termination statements; amending s. 15.091, F.S.; revising language with respect to processing fees under the Uniform Commercial Code; providing appropriations; providing an effective date.

—was referred to the Committee on Appropriations.

By the Committee on Criminal Justice and Representatives Martinez and Sindler—

CS for HB 109-H—A bill to be entitled An act relating to juvenile offenders; amending s. 39.01, F.S.; revising the definition of “serious or habitual juvenile offender”; reenacting ss. 39.052(5) and 39.058(3)(e) and (4)(a), F.S., relating to serious or habitual delinquent child placement and assessments, to incorporate said amendment in references thereto; creating s. 39.0582; providing for intensive residential treatment programs for 10-13 year old offenders; creating subsection (68) of s. 39.01, F.S.; providing a definition; amending s. 39.0585; authorizing identification on juvenile offenders; defining “juvenile offender”; recognizing a disproportionate representation of minorities; providing for sharing information with the gang prevention council; amending s. 39.044, F.S.; amending detention criteria, and reenacting ss. 39.037(1), 39.042(3)(b)1., 39.049(5), 39.064(1), and 39.402(4), F.S., relating to taking a child into custody, use of detention, process and service, detention of escaped child, and placement in a shelter, to incorporate said amendment in references thereto; amending s. 39.038, F.S.; requiring the child to join in the release agreement; amending s. 39.047, F.S.; amending the responsibilities of the case manager; creating s. 39.0445, F.S.; providing for placement of juvenile domestic violence offenders; amending s. 39.054, F.S.; revising powers of disposition; amending s. 39.022 expanding court's jurisdiction for enforcement of restitution orders; amending s. 39.061, F.S.; eliminating reference to restrictiveness levels in the definition of escape; amending s. 39.01(61), F.S.; specifying the programs by restrictiveness and risk levels; amending ss. 960.001, 960.002, 960.003, 960.01, 960.02, 960.03, 960.07, 960.17, 960.20, and 960.28, F.S., relating to victim assistance, to provide that victims and witnesses in juvenile delinquency cases have the same rights as those afforded to victims and witnesses in adult criminal cases; providing for the removal of the disabilities of nonage for certain minors; providing for a separate program for young offenders; creating s. 39.0215, F.S.; providing for administering county and municipal juvenile delinquency programs and facilities, including secure detention facilities; providing for transfers of children; providing for payment of children performing services in work programs; requiring that county and municipal programs comport with state law and department rules and coordinate with other services; requiring quarterly inspections and evaluations by the department; requiring a monitoring fee; ensuring the training of personnel; providing enforcement powers to the Department of Health and Rehabilitative Services; amending s. 39.057, F.S.; authorizing county and municipal boot camps; providing for enforcement, including injunctive relief and proceedings to terminate facility operation; providing an effective date.

—was referred to the Committees on Criminal Justice and Appropriations.

By the Committee on Agriculture and Representatives Harris and K. Smith—

CS for HB 241-H—A bill to be entitled An act relating to the Department of Agriculture and Consumer Services; amending ss. 20.14 and 570.29, F.S.; revising administrative structure of the department; amending ss. 570.02 and 570.242, F.S.; modifying definitions; amending s. 570.07, F.S.; modifying department powers and duties; creating s. 570.073, F.S.; authorizing establishment of an Office of Agricultural Law

Enforcement within the department; providing duties and authority of officers; creating s. 570.091, F.S.; providing for deputy commissioners of agriculture; creating s. 570.092, F.S.; providing for an inspector general and providing duties; amending s. 570.30, F.S.; transferring certain responsibilities relating to public fairs and expositions from the Division of Administration to the Division of Standards and the Division of Marketing and Development; amending s. 570.33, F.S.; deleting qualifications for director of the Division of Plant Industry; amending s. 570.37, F.S.; revising qualifications for director of the Division of Animal Industry; amending s. 570.41, F.S.; deleting qualifications for director of the Division of Dairy Industry; amending s. 570.44, F.S.; renaming the Division of Inspections as the Division of Agricultural Environmental Services; transferring various duties to the Division of Food Safety, the Division of Dairy Industry, and the Office of Agricultural Law Enforcement; providing additional duties relating to soil and water conservation; transferring responsibilities for analysis of fertilizers, pesticides, commercial feed, and seed to the Division of Agricultural Environmental Services from the Division of Chemistry; amending s. 570.45, F.S.; revising duties of division director; amending s. 570.46, F.S.; transferring responsibility for testing certain samples for conformity with state specifications to the Division of Standards from the Division of Chemistry; amending s. 570.47, F.S.; deleting qualifications for division director; amending s. 570.48, F.S.; renaming the Division of Fruit and Vegetable Inspection as the Division of Fruit and Vegetables; amending s. 570.50, F.S.; renaming the Division of Chemistry as the Division of Food Safety; providing additional duties relating to inspection of meat and poultry, and food and food products; amending s. 570.51, F.S.; deleting qualifications for division director; amending s. 570.53, F.S.; renaming the Division of Marketing as the Division of Marketing and Development; providing additional responsibilities relating to public fairs and expositions; amending s. 570.544, F.S.; providing procedure for resolution of complaints by the Division of Consumer Services; amending s. 570.549, F.S.; deleting qualifications for director of the Division of Forestry; amending s. 570.55, F.S.; renaming the Florida Avocado, Mango, and Lime Sales Law as the “Florida Avocado, Mango, Lime, and Tomato Sales Law”; transferring from the Division of Inspection to the Office of Agricultural Law Enforcement enforcement duties relating to sale of avocados, mangoes, limes, and tomatoes; revising definitions; amending ss. 585.001, 585.002, and 585.01, F.S.; conforming provisions relating to the Division of Animal Industry; amending s. 585.21, F.S.; clarifying responsibilities; amending s. 585.715, F.S.; providing that the Division of Food Safety enforce part II of chapter 585, F.S.; amending ss. 616.001, 616.21, and 616.28, F.S.; deleting references to the Bureau of Public Fairs and Expositions; creating s. 932.708, F.S.; creating the Law Enforcement Trust Fund within the department; providing for deposit therein of revenues from certain criminal or forfeiture proceedings; amending ss. 235.014 and 468.382, F.S.; correcting cross references; amending ss. 487.159, 570.09, 570.23, 570.244, 570.248, 570.31, 570.34, 570.38, 570.42, 570.49, 570.531, 570.54, 570.541, 570.543, 571.23, 573.111, 574.01, 574.03, 601.28, 601.58, and 601.66, F.S.; conforming terminology; directing the Division of Statutory Revision to make changes in terminology; repealing ss. 534.081(3), 570.36(6), and 590.02(4), F.S., relating to enforcement of agricultural provisions by law enforcement officers, special officers, the Division of Animal Industry, and special officers of the Division of Forestry; amending s. 501.015, F.S.; requiring health studios to post a certificate; providing requirements with respect to occupational licenses; requiring that moneys collected under the section be deposited into the General Inspection Trust Fund; amending s. 501.016, F.S.; revising language with respect to health studio security requirements; amending s. 501.019, F.S.; revising language with respect to administrative penalties for health studios; requiring that moneys collected under the section be deposited into the General Inspection Trust Fund; amending s. 501.059, F.S.; revising definitions; revising language with respect to telephone solicitation to conform to the act; providing for the deposit of civil penalties with respect to telephone solicitation into the General Inspection Trust Fund; amending s. 501.604, F.S.; revising language with respect to exemptions; amending s. 501.912, F.S.; revising definitions; amending s. 501.913, F.S.; revising registration provisions under the Antifreeze Act of 1978; amending s. 501.917, F.S.; clarifying language with respect to inspections by the department; amending s. 501.918, F.S.; clarifying language with respect to prohibited activities; amending s. 501.919, F.S.; revising language with respect to stop-sale orders; amending s. 501.922, F.S.; increasing timeframes for revocation or suspension of registration under the act; providing for deposit of funds into the General Inspection Trust Fund; amending s. 525.01, F.S.; providing definitions with respect to gasoline and oil inspections by the Department of Agriculture and Consumer Services; amending s. 525.02, F.S.; revising language with respect to analysis of petroleum fuel; repealing s.

525.03, F.S., relating to the submission of samples of gasoline or oil to the department; creating s. 525.035, F.S., relating to mislabeled petroleum fuel being subject to stop sale; creating s. 525.037, F.S.; providing for stop sale with respect to petroleum fuel which is below standard; amending s. 525.07, F.S.; revising language with respect to the power of the department to make inspections; revising penalties; providing for registration of persons who repair or install certain pump meter devices; amending s. 525.08, F.S.; revising language with respect to the access of the department; amending s. 525.09, F.S.; revising language with respect to inspection fees; amending s. 525.10, F.S.; revising language with respect to the payment of expenses; amending s. 525.14, F.S.; revising language with respect to rules; amending s. 525.15, F.S.; clarifying language with respect to inspectors; amending s. 525.16, F.S.; providing for administrative fines and penalties; amending s. 526.50, F.S.; revising definitions with respect to the law governing the sale of brake fluid; amending s. 526.53, F.S.; revising language with respect to enforcement, inspection, and analysis, stop sale and disposition, and regulations; amending s. 531.41, F.S.; revising language with respect to the powers and duties of the department under the Weights and Measures Act of 1971; amending ss. 559.801, 559.803, 559.805, 559.807, and 559.815, F.S.; changing the term "division" to "department"; increasing a fee in s. 559.805, F.S.; amending s. 559.813, F.S.; authorizing the Department of Agriculture and Consumer Services to bring an action for injunction or civil relief; amending s. 559.927, F.S.; revising language with respect to regulation of sellers of travel; revising provisions relating to registration and fees; requiring that registration fees be used for the sole purpose of administering the section; amending s. 501.143, F.S.; requiring deposit of certain moneys collected pursuant to the Dance Studio Act into the General Inspection Trust Fund; repealing s. 570.5441, F.S., relating to the Consumer Protection Trust Fund; amending s. 616.091, F.S.; revising language with respect to safety standards for the operation of amusement devices; providing permitting and inspection procedures for amusement rental companies; providing an exemption from requirements of chapter 616, F.S., under certain conditions; prohibiting the operation of certain amusement attractions; repealing s. 525.06, F.S., relating to gasoline or oil which is below standard and subject to confiscation; repealing s. 525.11, F.S., relating to the requirement that the Comptroller must pay certain expenses of the Department of Agriculture and Consumer Services; repealing s. 525.13, F.S., relating to a report of the department; repealing s. 525.17, F.S., relating to penalties for violation of law relating to gasoline and oil inspection; repealing s. 525.18, F.S., relating to injunctions; repealing s. 559.925, F.S., relating to receptive tour operators; repealing s. 570.151, F.S., relating to appointment and duties of road guard inspection special officers; redesignating s. 616.091(2), F.S., as s. 616.0915, F.S.; saving ss. 500.12 and 500.121, F.S., from repeal and providing for future review and repeal; providing effective dates.

—was referred to the Committees on Agriculture; Finance, Taxation and Claims; and Appropriations.

By the Committee on Postsecondary Education and Representative Arnold—

HB 317-H—A bill to be entitled An act relating to nonpublic postsecondary institutions; amending s. 246.011, F.S.; revising legislative purpose relating to regulation of nonpublic colleges; amending s. 246.013, F.S.; correcting a cross reference; providing for the deposit of fees; amending s. 246.021, F.S.; revising and providing additional definitions; amending s. 246.031, F.S.; revising the membership of the State Board of Independent Colleges and Universities; amending s. 246.041, F.S.; providing additional powers and duties of the board; authorizing the board to impose certain fines; amending s. 246.081, F.S.; revising licensing requirements for nonpublic colleges; providing exceptions to such requirements; creating s. 246.083, F.S.; providing criteria for receipt of an authorization to operate; amending s. 246.085, F.S.; revising process relating to exemptions from licensure; providing for certificates of exemption and specifying requirements related thereto; amending s. 246.095, F.S.; revising requirements for disclosures to prospective students; amending s. 246.101, F.S.; revising provisions relating to fees; requiring a fee schedule; providing for base, workload, and late fees; amending s. 246.111, F.S.; revising provisions relating to denial, probation, or revocation of license; requiring the board to promulgate rules; amending s. 246.121, F.S.; revising provisions relating to use of the title "college" or "university"; amending s. 246.31, F.S.; revising provisions relating to fees deposited in the Institutional Assessment Trust Fund and use of funds therein; amending ss. 240.4093 and 240.4097, F.S.; correcting cross references; amending s. 240.4095, F.S.; revising provisions relating to eligibility for Florida private student assistance grants; creating s. 240.607, F.S.; creating the

Access Grant Fund for Community College Graduates and providing for grants to eligible students; amending s. 817.566, F.S.; requiring disclosure upon presentation of certain degrees; saving ss. 246.011, 246.021, 246.031, 246.041, 246.051, 246.061, 246.071, 246.081, 246.085, 246.087, 246.091, 246.095, 246.101, 246.111, 246.121, 246.131, 246.141, and 246.151, F.S., from Sunset repeal; providing for future review and repeal; providing an effective date.

—was referred to the Committees on Education; and Finance, Taxation and Claims.

RETURNING MESSAGES—FINAL ACTION

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate amendments and passed as amended HB 171-H.

John B. Phelps, Clerk

ROLL CALLS ON SENATE BILLS

CS for SB 102-H

Yeas—33

Bankhead	Davis	Kurth	Thomas
Beard	Diaz-Balart	Langley	Walker
Bruner	Gardner	Malchon	Weinstein
Burt	Girardeau	McKay	Weinstock
Casas	Grant	Meek	Wexler
Childers	Jenne	Myers	Yancey
Crenshaw	Jennings	Plummer	
Crotty	Johnson	Scott	
Dantzler	Kiser	Souto	

Nays—1

Grizzle

CS for SB 132-H

Yeas—36

Madam President	Dantzler	Johnson	Scott
Bankhead	Davis	Kiser	Souto
Beard	Forman	Kurth	Thomas
Bruner	Gardner	Langley	Thurman
Burt	Girardeau	Malchon	Walker
Casas	Grant	McKay	Weinstein
Childers	Grizzle	Meek	Weinstock
Crenshaw	Jenne	Myers	Wexler
Crotty	Jennings	Plummer	Yancey

Nays—None

SB 170-H

Yeas—38

Madam President	Davis	Kirkpatrick	Souto
Bankhead	Diaz-Balart	Kiser	Thomas
Beard	Forman	Kurth	Thurman
Bruner	Gardner	Langley	Walker
Burt	Girardeau	Malchon	Weinstein
Casas	Grant	McKay	Weinstock
Childers	Grizzle	Meek	Wexler
Crenshaw	Jenne	Myers	Yancey
Crotty	Jennings	Plummer	
Dantzler	Johnson	Scott	

Nays—None

SB 180-H

Yeas—36

Madam President	Casas	Davis	Grant
Bankhead	Childers	Diaz-Balart	Grizzle
Beard	Crenshaw	Forman	Jenne
Bruner	Crotty	Gardner	Jennings
Burt	Dantzler	Girardeau	Johnson

Kirkpatrick	McKay	Scott
Kiser	Meek	Souto
Kurth	Myers	Thomas
Langley	Plummer	Thurman

Nays—None

Vote after roll call:

Yea—Malchon, Yancey

SB 210-H

Yeas—34

Madam President	Dantzler	Johnson	Scott
Bankhead	Davis	Kirkpatrick	Souto
Beard	Forman	Kiser	Thomas
Bruner	Gardner	Kurth	Thurman
Burt	Girardeau	Langley	Walker
Casas	Grant	Malchon	Weinstock
Childers	Grizzle	McKay	Yancey
Crenshaw	Jenne	Meek	
Crotty	Jennings	Myers	

Nays—3

Diaz-Balart	Plummer	Weinstein
-------------	---------	-----------

Vote after roll call:

Yea—Wexler

Yea to Nay—Souto

SB 226-H

Yeas—29

Madam President	Dantzler	Kirkpatrick	Thomas
Bankhead	Davis	Kiser	Thurman
Beard	Diaz-Balart	Langley	Walker
Bruner	Forman	McKay	Weinstock
Burt	Grant	Meek	Yancey
Casas	Grizzle	Myers	
Childers	Jennings	Plummer	
Crenshaw	Johnson	Scott	

Nays—None

Vote after roll call:

Yea—Kurth, Souto

SB 228-H

Yeas—36

Bankhead	Davis	Johnson	Scott
Beard	Diaz-Balart	Kiser	Souto
Bruner	Forman	Kurth	Thomas
Burt	Gardner	Langley	Thurman
Casas	Girardeau	Malchon	Walker
Childers	Grant	McKay	Weinstein
Crenshaw	Grizzle	Meek	Weinstock
Crotty	Jenne	Myers	Wexler
Dantzler	Jennings	Plummer	Yancey

Nays—None

ROLL CALLS ON HOUSE BILLS**CS for HB 67-H**

Yeas—34

Bankhead	Davis	Kirkpatrick	Thomas
Beard	Diaz-Balart	Kiser	Thurman
Bruner	Forman	Kurth	Walker
Burt	Gardner	Langley	Weinstein
Casas	Girardeau	McKay	Weinstock
Childers	Grant	Meek	Wexler
Crenshaw	Grizzle	Myers	Yancey
Crotty	Jennings	Plummer	
Dantzler	Johnson	Souto	

Nays—None

Vote after roll call:

Yea—Jenne, Scott

ENROLLING REPORTS

SB 18-H has been enrolled, signed by the required Constitutional Officers and presented to the Governor on June 17, 1992.

Joe Brown, Secretary

CORRECTION AND APPROVAL OF JOURNAL

The Journal of June 16 was corrected and approved.

CO-SPONSORS

Senator Souto—SB 202-H

RECESS

On motion by Senator Thomas, the Senate recessed at 12:20 p.m. to reconvene at 10:00 a.m., Thursday, June 18.